

MINUTES OF EVIDENCE

Taken before the Royal Commission on the Penal System in England and Wales

Witnesses: Mr. D. R. VICKERS
Mr. R. MCGROBY
Mr. D. B. EDWARDS, M.Sc. } of the Association of Teachers
in Penal Establishments

Tuesday, 4th May 1965

Present:

The Rt. Hon. VISCOUNT AMORY, G.C.M.G. (*Chairman*)

The LADY AORIAN, D.B.E.	Professor L. RADZINOWICZ
The Hon. Mr. JUSTICE EDMUND DAVIES	The Hon. S. C. SILKIN, Q.C., M.P.
The Hon. SYLVIA FLETCHER-MOULTON, C.B.E.	Mrs. B. SEROTA
Dr. T. C. N. GIBBENS, M.B.E.	Mrs. ELIOT WARBURTON, O.B.E.
Mr. T. L. IREMONGIER, M.P.	The Rt. Hon. LORD WHEATLEY
Mr. R. E. MILLARD	Mr. A. ALEXANDER, O.B.E. (<i>N. Ireland Observer</i>)
Professor J. N. MORRIS	

Mr. A. J. E. BRENNAN (*Secretary*)

Mr. D. F. INGREY (*Assistant Secretary*)

Memorandum submitted by the Association of Teachers in Penal Establishments

Introduction

1. The Association of Teachers in Penal Establishments represents all Tutor Organisers and education staff employed in penal institutions. Formed in 1958, the Association is the channel of inter-communication for some 95 full-time and part-time Tutor Organisers, together with 1,500 sessional teachers. This document has been compiled from evidence collected throughout the whole of the prison, borstal and detention centre field. It has been discussed with the Association of Teachers in Technical Institutions, and is submitted with the approval and support of the Officers of the A.T.T.I.—our partner organisation covering the whole field of teaching staff in further and higher education. The A.T.P.E. therefore presents this evidence with considerable authority to speak on education within the penal system.

2. In this document the Association has confined itself to comment on those items in the Commission's terms of reference on which it is able to offer expert knowledge from its members in prisons, borstals and detention centres.

Historical Background

3. Prior to 1923, educational work in prisons had been in the hands of devoted—and often untrained—individuals, and there was no attempt at co-ordination on a national basis.

4. In 1923 under the Board of Education (as it then was) an Adult Education Scheme for prisons was started. This was staffed by voluntary teachers and continued until the outbreak of the Second World War which brought about its almost complete cessation.
5. After the War, a number of Local Education Authorities undertook work in prisons and Borstals, and a big step forward was taken in 1945 when Durham Education Committee agreed to recognise Durham Prison as an Evening Institute. Educational provision did not become country-wide until after the passing of the Education (Miscellaneous Provisions) Act in July 1948. At the end of that year, educational classes had been established in 29 prisons.
6. The next advance occurred in 1953, when in April the Prison Commissioners undertook to reimburse Local Education Authorities for the cost of education services. The number of classes in that year amounted to just over 1,100 a week. By the autumn of 1963 some 3,250 classes a week were held in prisons, borstals and detention centres. In the same decade financial expenditure rose from £36,275 to £306,615. Education classes are now conducted in upwards of 90 establishments.
7. This period of expansion has not always been one of co-ordinated growth, and indeed during the vital period April 1961 to April 1964 there was no Assistant Commissioner whose sole responsibility was the care and development of penal education.
8. Individual Tutor Organisers have thus been left very largely to work out (in conjunction with their local Governors) their own educational policies, and although on one hand this has helped to preserve for them the independence vital to education, it has resulted in a great deal of avoidable frustration, irritation and lack of co-ordination, in which the inmate has often been the sufferer.

Philosophy of Penal Education

9. The major recommendation which arises from the historical situation is that *as an essential preliminary to the establishment of an effective educational system an urgent effort should be made to develop a philosophy and methodology of education within the penal system.*
10. One of the main features of this philosophy should be emphasis on the need for education in this setting to be specifically directed towards social rehabilitation.
11. This philosophy might well be based on Prison Rule 1: "The purpose of the training and treatment of convicted prisoners shall be to encourage and assist them to lead a good and useful life".
12. Education has a considerably greater contribution to make towards the fulfilment of this aim than appears yet to have been realised by those in authority within the penal system.
13. Too much time and energy is devoted to conditioning the inmate to conform to the artificial institutional environment rather than to training him to take his place in society as a mature and responsible person. The well-known phenomenon of the "model prisoner" who goes through his sentence as completely acceptable to authority but who suffers collapse on entering the outside world again, provides pathetic evidence of this truth.
14. A much too narrow view of education in prisons and Borstals is often taken. Some see it primarily as an aid to training for employment; others regard it, improperly, as a means of improving the production rate in prison industries. Participation in efficient production processes can be a potent instrument in training a man; but to use the man's training potential with production as the sole end in view is a prostitution of Rule 1.
15. (A number of Tutor Organisers find their classes to be at the mercy of various interruptions—e.g. haircuts, "call-ups" to sign for articles or money, canteen distributions, or baths. This practice, which eats into an already limited time spent on education, tends to lower the status and effectiveness of education).

Inmate Typology

16. To be effective and efficient, intelligent discrimination in the application of rehabilitative processes is required, and this in turn is dependent upon development of a system of inmate typology. If Rule 1 is to be accorded in practice the importance its numerical connotation implies, inmates should be placed in categories related to their training needs and potentialities.

17. For example, the small hard core of persistent and confirmed recidivists might well be segregated under a primarily custodial regime; the sexual deviants might be recognised as having problems requiring quite different treatment (not usually educational in nature) from that accorded to the heterosexual prisoner; the offender (usually a first offender) who has offended as a result of some crisis—or more often combination of crises—in his life, has less need of rehabilitative treatment than the man who repeatedly commits small offences because of a patent social inadequacy.

18. There remains a large group of men eminently suitable for training; they are generally young, not unreceptive, with records which denote irresponsibility and inadequacy rather than confirmed viciousness. In the opinion of Tutor Organisers, many of these men are redeemable, given the appropriate training. At present they tend to feel their sentences (which are expensive to society) useless to themselves.

19. Some experiments have taken place on a limited scale towards an inmate typology, but there is need for wider experiments by penal educationists given proper authority and suitable conditions to carry out this work.

Diagnostic Role of the Tutor Organiser

20. As a first step the Home Office and the Department of Education and Science should discard the outdated idea that Tutor Organisers are primarily in penal establishments to organise evening classes. Rather, as an Education Officer, his main function should be to advise the Governor on those educational processes which will help him and his staff to implement Rule 1, and to assist him to make these processes real and effective.

21. This calls for two new departures: First, the development of a new approach to analysis of an inmate's needs. At present this is usually fairly superficial, consisting of a combination of case methods and subjective assessments. Where a man is in prison for several years, it would not be unreasonable to spend, for instance, a month in a detailed examination of his total needs and deficiencies. These needs and deficiencies might well prove numerous and diverse, but if their discovery proved to be the first step towards the re-making of a man the time would be well spent, both on humanitarian and economic grounds.

22. It may be observed here that the closure of Latchmere House Allocation Centre is a retrograde step and is to be regretted. (As is also the lack of consultation with the education staff concerned). The Tutor Organisers—and others—at Borstals who received the comprehensive reports provided by the centre valued them greatly. We should like to see the establishment of two such centres—one in the North and one in the South.

23. We consider that the function of education in detention centres should be examined and defined. It is clear that education has little contribution to make to the deterrent element, but a large contribution to make to the rehabilitative element. Unless it is clear which element it is intended should preponderate there is bound to be confusion and waste of effort at local level.

New Techniques

24. Having discovered the quantity and variety of an inmate's needs, a detailed—and probably complex—programme would have to be devised to suit him. This should utilise the whole of the establishment's resources, and would call for the introduction

of a number of techniques in the field of character training and personality development which are known to educationists (and certainly to Tutor Organisers) but are either largely unknown to penal authorities or, if known, regarded with so much suspicion as to be inadmissible in practice. Role-playing, dramatisation projects, character-building situation groups, personality assessments, programmed learning and mechanical teaching, are labels attached to techniques of proven value in other educational fields but which so far have generally failed to penetrate the penal education field.

25. This reluctance to venture into new ground does not stem chiefly from financial considerations, for many of the above techniques could be utilised without involving much (if any) additional expense, providing that Tutor Organisers were given more freedom to use their initiative in new directions—e.g. in accepting help from private individuals or companies, in employing prison labour in projects shown to be for the general good, in using available facilities and accommodation for experimentation, etc.

26. With regard to experiment and research generally, the Prison Department's attitude should be urgently revised so as to encourage these activities. In the educational world at large there is currently a considerable movement of ideas and a reaching-out to new approaches. Tutor Organisers ought to be able to participate in this movement, and indeed their relaying of such intellectual activity from outside the walls to within is in itself a valuable contribution to the Prison Service.

27. One Tutor Organiser writes for many: "It is imperative that new ideas should be investigated and not merely regarded as suspect extravagances, so that we have a progressive educational system unhampered by obsolete equipment, constant cheese-paring and bureaucratic restrictions." This letter is typical of others received, and investigation would show its language to be neither inappropriate nor extravagant.

28. The Department of Education and Science through its Inspectors, etc. who are in close touch with the field should be capable of giving a lead towards encouragement of experimental work.

29. As one Tutor Organiser writes, after bitter experience of a request rejected on the grounds that it "may prejudice other forms of training"—"So it may, but without experiment who shall know?"

Effect of Educational Background

30. In addition to the wider introduction of diagnostic techniques in establishments, we believe there is a need for the use of such techniques in schools to assist in the early recognition of delinquency traits.

31. The imparting of some degree of social awareness at a very early age is desirable as part of the normal school curriculum.

32. There is evidence that an offender's pattern of delinquency may be entirely caused, or severely aggravated, by an education containing unsatisfactory features.

Priority Given to Educational Treatment

33. Where it can be seen to be desirable in the interests of the offender that his training should be placed largely in the hands of the education staff, then that training should be accorded the same priority as is given to medical or psychiatric treatment. It is already established that a trainee in need of special medical oversight will be sent to an establishment able to provide that form of care. It must be similarly arranged that where an objective assessment of an offender's needs reveals marked educational problems this assessment should form the basis of the arrangements made for the training of that offender.

34. While it has long been recognised in the penal system that persons of low intelligence may be given every help to overcome the problems of illiteracy, it is still not recognised

that a person of superior intelligence ought to be given educational training which would ensure that he may be able to function in society at a level commensurate with his superior intelligence.

35. The acceptance of a wider role for education has some other implications. In particular it would involve an incursion into the working day. In the past such incursions have only been made with considerable difficulty and have not always succeeded in being established.

36. In 1953, Pre-Release Courses by day in at least one prison were described in the Commission's Annual Report—page 53—as “of great value”; but such courses were subsequently relegated to the evenings as a general practice. The teaching of illiterates is in fact (so far as prisons are concerned) the only purely educational activity permitted by Prison Rules (No. 29/3) to take place during working hours.

37. Illiteracy is but one of the demonstrations of inadequacy from which an inmate may suffer. It is a readily discernible one, but there may well be other inadequacies suffered by an inmate which are less obvious but more serious, and which should certainly be dealt with during the daytime. Particularly in the present situation, where it is often difficult to maintain full occupational facilities for prisoners, is the taboo on daytime education seen to be an anachronism. Certainly the practice of stretching one hour's work over two hours which must often become necessary is the very reverse of good training and is to be deplored.

38. A contributory factor to this whole situation is a prevalent refusal to recognise study as work. Some inmates may be forgiven for such a limited outlook, but this ought not to be the attitude of those in authority. If it can be reasonably shown that, at some particular stage, intellectual activity or spiritual endeavour is more likely to contribute to a man's ultimate good than wielding a spade or manipulating a sock-machine, then a discerning decision ought to be made.

39. The possibilities of Day Release facilities being extended to suitable students should be investigated.

Organisation

40. In a service which has grown up in a comparatively short period there must inevitably be shortcomings, and these are only too apparent in the prison education service. Accepting the objectives of the service to be those described in preceding pages, we have given detailed consideration to the chief organisational needs to achieve the aims of penal education.

Staff Structure

41. The establishment of a sound staff structure calls for:

- (a) The appointment to the Home Office of a professional educationist. He should be professionally qualified, with first-hand knowledge of penal education and further education. His status would be that of a Director, and he would direct and co-ordinate a rational education policy based firmly on the requirements of Rule 1.
- (b) The establishment of at least one post in the Prison Department of Assistant Director of Education and five posts of Regional Education Officers, which should be open to men experienced in prison and Borstal education and which provide appropriate financial recognition.
- (c) Some system of grading establishments, related to their size, number of teachers and teaching hours involved and the type of work carried out. (It is invidious, for example, that a man having 60 teachers under his control should receive the same in basic allowances as a teacher responsible for one subject for 27½ hours a week for 40 weeks a year).

- (d) The abolition of the present system of variable lengths of appointments. A survey in 1961 revealed appointments made for (i) two years, (ii) "at least three years", (iii) three to five years, (iv) three to five years, renewed annually up to a maximum of seven, (v) "normal teaching appointment"—no limitation, and (vi) no contract at all.
42. This system is unsatisfactory since many good men are lost through the "annually renewable" rule and "birds of passage" tend to be attracted to the service rather than men who can make a substantial contribution over a period of years.
43. In the conditions peculiar to the prison service a man is frequently able to give his best service *only* after he has served several years in an establishment. A man who is appointed for three years only will spend one year learning the ropes, will give one year of effective work, and during his third year will inevitably be pre-occupied with looking for a new post. Such arrangements are unsatisfactory both from the point of view of the individual and from that of the establishment, and are certainly not conducive to the building up of a body of expertise likely to be of particular value in such a specialised field.
44. A necessary corollary of the extension of the period of service would be the provision of short refresher courses, *ad hoc* training courses, facilities for exchange visits (in this country and abroad), more frequent conferences, and the provision of adequate communications machinery. There is scope here for collaboration between the Home Office and the Further Education Staff College, and the initiative might well be taken by the Department of Education and Science. This would preclude any possibility of men going "stale" on the job. It should be added that there is no evidence that long-serving Tutor Organisers have declined either in enthusiasm or ability. This is a noteworthy feature when it is considered that most of the tonic features mentioned above are at present conspicuous by their absence.
45. During the initial six months of his appointment the Tutor Organiser needs support—certainly by means of material provision, office requirements, etc., and often by way of guidance and advice on the extent of his duties, responsibilities and powers. Such support is often missing, and the early months of the appointment are unnecessarily fraught with difficulties. Occasionally disaster is not avoided. (A Regional Officer would have an obvious and useful function to fulfil here).
46. Further requirements in a sound staff structure are:
- The rationalisation of salary scales and conditions of employment. Present arrangements are anomalous and inequitable. Many of the conditions shown in the Association's 1961 survey still apply. At that time in addition to having varying salary scales, some Tutor Organisers taught by day, whilst others did not; leave taken varied from three weeks to twelve weeks a year, and the working week varied from 26 hours to 50 hours.
 - The adoption of more equitable scales for sessional teachers. Although practices vary from Authority to Authority, in most cases provision is made for several different rates to be payable. The rate paid is usually related to the academic level of the work being done, and this usually results in evening class teachers at prisons, borstals and detention centres being paid at the lowest rate, no allowance being made for the difficulties inevitably associated with this type of student or for the peculiar conditions which frequently obtain. Provision should be made in the scales for sessional teachers to be paid at above the minimum rates. The following comment from a Tutor Organiser is typical: "This is a constant bone of contention with my teachers and one of the reasons why so many leave—22 in just over two years".

Financial Arrangements

47. There is an urgent need for the revision of the present financial arrangements which very largely deprive the Tutor Organiser of local discretion. With the present need to

submit so many requirements to the Prison Department for approval frustrating delays are inevitable.

48. There is a strong case for annual grants to be made to cover the supply of textbooks, art materials, handicraft materials, etc. It is not unusual for delays in the supply of such items to extend over months. Far from increased costs occurring with local purchase it is believed that through using the facilities of the County Supplies organisations (available to the Tutor Organiser) in many cases savings could be effected—in addition to the saving of administrative time and the frustrations associated with long delays.

49. Some aspects of the arrangements under which Handicraft Funds operate are long overdue for attention. In particular rules which involve an inmate paying an amount several times the net material cost of the item he has made are insupportable on any grounds. At least two solutions are available:

- (a) To reduce the charge to the inmate.
- (b) To transfer the excess profits to the inmates Private Cash account to be kept for him until he is discharged.

Ancillary Services

50. In a number of cases there is a need for the provision of proper clerical assistance for the Tutor Organisers. At present this is either non-existent, provided by Prison Officers (usually untrained in clerical skills), or, more generally, by inmates. The biggest drawbacks to the last arrangement are the rapid turnover (in many cases two or three during the course of a year), the variability of quality, the lack of continuity, and the inability to use them for anything of a confidential nature (which much of the material is).

51. It is clear that in many cases Tutor Organisers are overburdened with routine clerical work and their utility to the establishment is thereby lessened. Such clerical work includes:

- Preparation of class programmes and daily lists
- Correspondence with teachers
- Preparation of registers and claim forms
- Preparation of absentee reports
- Internal memos to other staff, etc.
- Minutes, reports, returns of various kinds
- Oversight of correspondence courses
- Papers connected with internal examinations
- External examinations arrangements
- Orders for handicraft materials
- Letters to suppliers of films, apparatus, etc.
- Syllabuses for teachers
- Educational assessments on men for various Boards
- Compilation of case-histories, etc., etc.

52. Provision of office equipment generally could be improved. Some Tutor Organisers need typewriters, while some need duplicators. Dictating machines, vertical filing systems and photo-copiers are virtually unknown in prison education offices, but if provided would promote efficiency.

Prison Staff Training

53. Staff Training is at present chiefly catered for by the Staff College at Wakefield and the extra-mural departments of universities and colleges. Very little is done at local level, and by virtue of their training and experience Tutor Organisers could make a valuable contribution here. A number of Organisers tutor small groups of Prison Officers prior

to their Principal Officers' examination, and also teach subjects such as English and Mathematics, but this is a personal and voluntary arrangement of which official cognisance is not taken.

54. Tutor Organisers are invariably in touch with their Local Education Authorities and therefore with local resources. Very little more than the authority to do so would be needed to launch a series of courses on subjects ranging from the purely academic to social studies, communication techniques and specialised courses on penology, criminology, law, etc. Such courses would be available to Assistant Governors, Vocational Training Instructors, Prison Officers and others, and over a period should prove invaluable.

H.M. Inspectorate

55. Relationships with H.M. Inspectors of the Department of Education have tended to deteriorate in recent years in direct proportion to the ineffectiveness of comments and suggestions contained in H.M. Inspectors' Reports. Such recommendations are infrequently fully implemented by the Home Office, and at times are apparently entirely overlooked, e.g. one Tutor Organiser is still pressing for recommendations made in a Report of 1959 to be implemented.

56. We suggest it is important that these carefully prepared documents should be more seriously considered and their recommendations carried out if at all possible.

Conclusion

57. Any further plans for education in prisons, borstals and detention centres must take into account two factors which innately are difficult to reconcile—that education to be effective must be fully integrated with the establishment it serves; and that education to register vitality must retain its essential independence.

58. Tutor Organisers as a body persist to a remarkable degree in the conviction that man—delinquent man—is reclaimable, can be re-educated and can be re-made. The last decade has seen a great deal of disquiet, both official and non-official, public and private, at the lack of success of present methods. During that same decade Tutor Organisers have remained constant to their conviction that educational media and methods provide the best way of justifying hopes for the success of rehabilitative processes.

59. Is the time not now ripe to look more searchingly in this direction?

January 1965

EXAMINATION OF WITNESSES

1. *Chairman:* Gentlemen, may I on behalf of my colleagues thank you very much for coming along. You have sent us in a very interesting paper and we felt that there were a number of questions we would like to ask you in explanation and expansion of the views you have expressed in it. You have the distinction of being the first of our oral witnesses and in that sense you are the guinea pig on whom we are now going to try our expertise.

We gather that the theme running through your paper is that the oppor-

tunities for positive work in this field of education are not being fully exploited at the present time, and therefore we would like you, where you feel you can do so, to emphasise the points on which you think progress can be made.

I mentioned that we have quite a lot of questions to ask you and we must not keep you more than a reasonable time this afternoon. I hope on both sides we shall be as brief and as succinct as possible because you have given us a great deal of basic information in your paper.

We were wondering about the best way of dealing with this and it occurred to us it might be convenient if we divided our questions under each of the general headings you have adopted. There are a great many paragraphs, rather too many to take them paragraph by paragraph, but I think your section headings give us a very good opportunity of tackling it in that way. My colleagues will be asking you questions that occur to them individually. We have not arranged this in any special order. We will just see how we go along. Would that be agreeable to you, that we should tackle it in that kind of way?—*Mr. McGrory*: I think so, Sir. We are in your hands, we are the guinea pig.

2. The first heading is "INTRODUCTION". If I may fire off with one question, you mention your own Association, the A.T.P.E., and that your evidence has been discussed with the Association of Teachers in Technical Institutions, the A.T.T.I. We should be interested in anything you can tell us about the relationships between the two bodies, whether substantially your views are identical or you have anything to add to what you have said in the memorandum.

Secondly, it would be helpful to start with, if you would tell us what you functions are individually, the three of you giving evidence this afternoon, because I think that may facilitate subsequent questioning on what you are doing now and what you have done in the past.—

Mr. Vickers: In answer to your first question, my Lord Chairman, the Association of Teachers in Penal Establishments was founded six or seven years ago. Being a very small association, we thought we would like to gain from the experience of a wider group and therefore we are now associated with the A.T.T.I. which is a body covering all the teachers in further education. Mr. Edwards on the left is in a position to speak very much more fully about the A.T.T.I. We are unanimous in the recommendations we have made. Both bodies have discussed the paper in front of you very fully and therefore it represents opinion shared equally by both bodies.

If I can carry on to the second part and introduce myself, I am Secretary of this particular Association and apart from that

I am a Tutor Organiser now at Maidstone Prison and before that at Eastchurch Prison; the time I have spent in both institutions covers now thirteen years.—

Mr. McGrory: Myself, I am Chairman of the association, a post I have occupied since it became an affiliated body to the A.T.T.I. My own job is on secondment from Surrey to Latchmere House Borstal allocation centre.

3. From Surrey to . . . ?—The Latchmere House Allocation Centre now—since August last year—a Senior Detention Centre, as Education Officer.—*Mr. Edwards*: Sir, I have no experience at all except some during the war in that capacity. I am here as representative of the affiliated body.

4. *Chairman*: Thank you very much. You are working with the affiliated body?—Yes.

5. *Mr. Justice Edmund Davies*: Does that mean the Association of Teachers in Technical Institutions have nothing to do with prisons or penal establishments?—We have a certain number of members who are Tutor Organisers.

6. In paragraph 6 you say "Education classes are now conducted in upwards of ninety establishments". Is that substantially in all the establishments there are? I believe there are about one hundred establishments altogether.—*Mr. Vickers*: Yes, My Lord Chairman, that is so. The proportion of full-time to part-time Tutor Organisers is that there are about half and half. In other words, the ninety-five or so establishments have full-time Tutor Organisers in about half of them and part-time Tutor Organisers in the others. The part-time Tutor Organisers spend half their working week in a prison or Borstal centre and half usually in a technical college or some similar institution.

7. *Chairman*: In paragraph 8 you say that Tutor Organisers have been left very largely to work out in conjunction with their local governors their educational policies. Is there any difficulty in reconciling that with your later paragraphs 24 to 29 in which you imply, I think, that there have been a certain restriction of scope of the work?—*Mr. McGrory*: Confining myself to paragraph 8 at the

moment, I think the exceptional circumstances of our job where a Tutor Organiser tends to be isolated are that there is no guiding hand.

We have a chief education officer in the prison department, Mr. Cape (who was previously an Assistant Commissioner), and he and certain staff are responsible for the money we get, the facilities, books and all the rest of it; but the educational programme itself, I think I might say this, is in the Tutor Organiser's hands. There is very little guide as to whether he is doing a right job or a wrong job apart from one link which is through the H.M.I.—Her Majesty's Inspectors, who are the liaison between the Prison Department and the organisers. The H.M.I. can come in and advise, if he is available, but I think he is overworked. I have seen him twice in three years—it is that sort of time you are in touch with him. You are left just to work this out. From the governors, of course, you hope for a sympathetic attitude to education but it does not always follow. At the moment one of our main difficulties is isolation in the job in which you have to do the best you can with the facilities and amenities available.

8. Are you implying that much would depend on personal enthusiasm for the educational work?—I would imply that.
—*Mr. Vickers*: During the particular period we are speaking about in paragraph 7 there was no Assistant Commissioner, as we say, solely responsible. Assistant Directors were given power to keep in touch with the establishments in their areas.

The situation we have implied in paragraph 8 largely arises because it is not the practice of the Prison Department to establish a policy for a particular prison, or type of prison which is then carried out by local governors. It does very much tend to be the case that there is not a clearly defined policy and that local governors work out their own policies. This means that whilst a Tutor Organiser may very amicably come to some agreement with a governor on a particular educational policy, with a change of governor there can be a complete alteration of direction and this is what so

often happens. If one in fact studies the histories of individual prisons it can be seen that the policy does not run as a continuous thread, it has altered as frequently as the governor has changed.

Chairman: Thank you, I think you have made that point clear. I will ask my colleagues if they have any other questions they would like to ask on paragraphs 3 to 8.

9. *Mrs. Warburton*: My Lord Chairman, I would like to ask whether where there are part-time Tutor Organisers, these are in very small prisons, local prisons or detention centres? Is there any indication where they are part-time, of size of prison, size of institution?—*Mr. McGrory*: Detention centres can have part-time or full-time organisers. Most borstals have full-time organisers; but in some cases there are part-time Tutor Organisers. This occurs either where the inmates are not so numerous, or where they are of the more intelligent, mature type, and a full-time organiser is not deemed necessary. Where you get boys, immature, backward, illiterate, then there seems need for a full-time officer. Prisons, I think I am right in saying, have full-time organisers.—*Mr. Vickers*: There are some exceptions like Manchester with 1,000 men and a part-time organiser. We have the criterion adopted here that where there is a large degree of trainability of men in prison a full-time organiser is appointed; but, where the policy is largely one of containment, part-time.

10. *Chairman*: Would you say the criterion adopted in deciding whether full-time or part-time is sensible and relevant, or are you criticising the criterion adopted?—*Mr. McGrory*: I think I would criticise it. If you accept what we are saying in this paper, I think the services of a full-time organiser are necessary.—*Mr. Vickers*: May I add, we are rather alarmed at the moment in that some appointments which have been full-time are being replaced, as the occupant retires, by part-time appointments, which we think a retrograde step. This has happened at the moment in the case of Parkhurst Prison and Grendon Underwood.

11. *Mr. Millard*: Is there never more than one Tutor Organiser in any prison who presumably arranges for part-time teachers to come in and take the classes?

—*Mr. McGrory*: That is true.

12. *Lady Adrian*: Is he responsible for deciding the type of education an individual needs, it may be remedial teaching in reading or technical teaching to get through the City and Guilds, or general orientation of a more rehabilitative kind?—This is what we hope for. We have the warden or governor who is also very much in the picture here.

13. *Lord Wheatley*: While the Tutor Organiser may advise the governor about the number of classes, the subjects and times, and the supply of teaching materials required, is the ultimate decision at the discretion of the governor?—*Mr. Vickers*: Not entirely my Lord Chairman. The provision is restricted to a large extent by the financial estimates. Allocations of hours per establishment are decided at head office level and each establishment is given a ceiling figure of hours per week, weeks per year, to which it may work. Within this ceiling figure it is up to the Tutor Organiser with his governor to work out the local education policy and how hours and money are spent.

14. *Chairman*: It does not then depend on the amount of money the local education authority is prepared to allocate, because the expenditure is refunded?—That is so.

15. *Lord Wheatley*: You did indicate the desirability of having a general policy which would be applied in each case and not left to the discretion of the individual governor. Are there any suggestions other than that which you would like to make for the improvement of educational facilities in prison?—*My Lord Chairman*, we would like to see a rearrangement of the financial arrangements which at the moment leave almost the entire discretion in the hands of the head office of the Prison Department. We feel there should be much more discretion locally. The greatest amount it is possible to spend at local level in any one day, apart from expenditure of *ad hoc* grants, is one pound.

We have just succeeded in securing annual grants from the Prison Department. These are very modest amounts, and those we have heard of, as recently as during the last two or three days, range from £65 to £155; but these are very small, when we consider the objects we would like to spend them on.

I think there is no other major alteration we would like to see. We are chiefly concerned with there being a strong policy from the top, and that rehabilitation should be its main theme. We think that the other things we should like to see would then naturally ensue.

16. *Chairman*: Thank you very much. When we come to the next heading "PHILOSOPHY OF PENAL EDUCATION" we seem to come to the core of your arguments and views. This section, read in conjunction with paragraph 24, seems to us very important indeed. What we would like you to do, if you will, is to amplify your main view here on the role of education with such reference as you like to make to later paragraphs in your paper. We think it absolutely essential that we should understand fully this part of your case.—*Mr. McGrory*: Let us divide the penal system at the moment.

Borstals to me seem to sum up fairly well this theme of rehabilitation. I think this is where there is the best hope of success. Borstal is making a good attempt with allocation centres in which you segregate and separate your various lads of all kinds of abilities, social background and all the rest of it. You have a chance in six months to two years to get to work on the lads in your care, so Borstals I think are trying to do something in this field.

Detention centres are a different kettle of fish. I think the whole idea was for some sort of place to put the lad for a few months (in some cases now only ten weeks, if he gets two weeks' remission)—where he could receive some kind of "shaking-up". There seems to be some doubt whether it is to be used as a deterrent, a punitive shaking-up process, or whether education has any part in this.

I have my doubts about this. Somebody wants to come off the fence here. These lads come for three months for a certain

type of treatment. Somebody has to say something about it—we cannot do much—as to whether education has any part in a scheme where boys are going to be shaken up a little bit.

This is what I am against in detention centres. There is a lot to be done here. This is the experience we have in an institution: we have boys coming in from approved schools, already institution-alised, boys coming back for a second time to the same institution, boys for six months as well as the three months lads. These factors militate against any attempt to try and get something going here. The time is too short—I am not saying we must keep them longer, that is a different policy altogether—but the rehabilitation centre at the moment seems to me a very nebulous affair.

If the policy is to shake the lad up, the Borstal system I would say has a fair chance of success here. The success rate for Borstal is much higher than the detention centre. During the last six months at Latchmere House as a Borstal allocation centre I found that out of 400 lads, 150 had already received detention centre treatment—some in fact twice. When you talk about rehabilitation and detention centres in the same breath, you can see my difficulty.

17. *Mr. Justice Edmund Davies:* Could you attempt any kind of education programme proceeding from the basic assumption, which may or may not be right, that you are going to send young people into custody for a short period which is preferably three months or perhaps six months—can you do much in that time?—At the moment there are evening classes, an hour and a half per day. I think they are regarded as relaxation on the boy's part and probably relieve the staff situation in the institution.

But if we were given the job of rehabilitation I would like to see in a detention centre—I am thinking of Borstal again where you have a team of your social worker, psychologist, housemaster, working with the boys individually, interviewing and reporting; it can be overdone but you are trying to see what is going on and what can be achieved.

At the moment in the detention centres, you have the organiser (not always), and sometimes you have a social worker; that is the lot.

The boys come to us and there is no medical history from the records. I have a boy at present in a detention centre who is semi-paralytic, he is paralysed all down one side. This is where we fall down on the treatment we give these boys. I think the need here is for some teamwork to be established, case work if you like, counselling, something to see what is wrong with these boys in the short time we have got—and this is the thing, time is short.

18. *Professor Radzinowicz:* You feel the Borstal system is successful, but is it not true to say after all that 66 per cent of them return because they commit a crime?—I did not say, so successful. I said, more successful than detention.

19. But, two-thirds of failures, would you regard that as success?—Not on those figures. The figure I had was about 48 per cent. You know better than I do, but there is more chance of success, to put it that way, than with the present detention centres.

20. But would you not prefer to say sometimes that prolonged detention has serious drawbacks, they get accustomed to an institution? Is it not true to say that a shake-up may have some reformatory elements?—I will say, going back to the beginning this was a very successful idea of a shake-up. I have mentioned the types of boys we are getting, the institutionalised boy, boys not physically fit, boys coming back a second time—these are factors which inhibit the success rate.

21. *Chairman:* I understood the success rate was high in the case of boys who had not been in any other institution, but much lower in the case of those who had.—Yes.

22. Do you draw a distinction between three months and six months in terms of what can be done in social rehabilitation by education in detention centres? Do you feel you have a much better chance if you have six months?—I think a long view must be taken of this if you are going

to try and stop a boy coming back. You have to weigh the chances of the longer sentence, six as against three months. I think we must always think the indeterminate sentence may come into it, but certainly ten weeks to improve. . . .

23. It is too short. You have made your point there. It is very short, if education has a part to play.—But beyond that. . . .

24. *Mr. Millard:* Do you think education has a part to play in the short sentence? Do you think there are boys who do need simply a shake-up, and do you think, thirdly, you can tell which are which?—Yes, if we got to work on them, on allocation, with the team that can get to work on a boy. I think this is where the work should be done, not just to push him in for three months to get him off the streets.

25. You think the allocation must be done before sending to the centres?—Some work should be done, yes.

26. *Dr. Gibbens:* Assuming the prisoner is going to spend three months in custody. What do you think the most profitable way of spending the three months would be? Would there be a place, for example, for organising what he is to do when he goes out? What would you do with a prisoner during those three months, if you feel you can do anything?—Yes, this is a complete change. I would make education as practical as possible for the three months. To think of teaching boys an hour and a half, four nights a week, at school is impracticable—I think academic subjects are pie in the sky at the moment.

I would think very much more of practical work for the boy, some vocational work. When he reported to his probation officer, I think I would make it part of the licensed time that he must continue this work—it might be woodwork or mechanics—in an institution of local education. He would continue with that work for a time, a year, and report progress to the probation officer. The sort of thing I have in mind is where you occupy a lad vocationally and, even more to the point, ensure he carries on when he leaves the detention centre. I have an awful feeling that these boys go out on the back streets and say "I have been in

detention and it has not touched me". He must have something instilled in him which he can carry on afterwards.

27. *Chairman:* Would you make this carrying on compulsory, as a condition?—I think for one or two nights a week at an institute.

27. *Miss Fletcher-Moulton:* My Lord Chairman, I wonder if we could look at paragraph 14 where the witnesses refer to a too narrow view of education? I would like that expanded, if you can do so.

Chairman: Where the line should be drawn between production and training.

—*Mr. Vickers:* Do I take it, my Lord Chairman, we have moved on from the "Philosophy of Education" completely?

Chairman: No, this is all under that heading. Say what you like. We are dealing now with paragraphs 9 to 15.—As far as prisons are concerned, and I think this would include other types of institutions too, we feel that the basis of our philosophy of education should be that we first accept that the man's punishment lies in his deprivation of freedom and that, once having been committed to an establishment, every effort should then be directed towards his rehabilitation and that this should be carried on right into his after-care work.

I know that often it is said that it is very difficult to assess the effects of a man's training in prison but at least there is one practical criterion: that the man himself should feel on leaving prison that he is better equipped to face his life and its problems than when he came in. We feel strongly that there are very few men indeed who leave prison with this feeling. We feel further that, using fairly orthodox educational methods (in default of something better at this stage of development), a lot more men than do so at present could leave prison feeling they are equipped to face their problems. We feel that the basis of the treatment should be that the prisoner is treated as a man and not as a member of a separate kind of sub-race, and we feel that the total purpose of the establishment, the total effort of the establishment should be directed towards this end. This does in fact bring us to paragraph 14 where production is mentioned.

You will be aware, my Lord Chairman, and your colleagues, that there has recently been a paper on work in prisons and Borstals and this has had a tonic effect on prison and Borstal industries, but unfortunately it has gone in some cases to the extreme where the actual training has suffered. I know of at least one prison where a six months' vocational training course has been shortened to four months in order that the men can go on to production quickly. This seems to us to be a prostitution of training in the true sense.

We are unanimous about this, I am speaking for my colleagues. If one adopts rehabilitation as one's main objective, all the effort in the establishment should be directed towards this end. This is one of the drawbacks in detention centres where often the education centre is used as a place of occupation when the boys are not doing anything else and from which they may be drawn to undertake almost any other activity in the detention centre.

28. I think somewhere in your evidence you give your view that efficient and purposeful production has got some training and educational advantage in itself, and therefore it is balance you are asking for?—Yes indeed, my Lord Chairman. We feel very strongly that proper production methods are a very valuable training instrument; but to put it the other way round and say production is the chief thing we aim at and everything else is subservient, is to put the cart before the horse.

29. *Professor Morris:* My Lord Chairman, is it inherent in what Mr. Vickers says that education in the sense he means it, should be a compulsory part of the training of the prisoner?—We do tend, my Lord Chairman, to avoid the word compulsory. We would prefer it to be seen as a necessary function, a traditional function of the institution, that this is what takes place, he comes for training, he expects to be trained and our experience is that where a man fully understands that the institution really wishes to re-equip him, he gives his full co-operation in a very great number of cases.

I ought to add to that by saying that we have to consider certain categories,

that this would not apply to every man in prison but to certain categories and perhaps I could, my Lord Chairman, proceed to mention the category we would like to see training applied to in particular.

The observations I would like to make briefly now are based on the case histories of some 7,000 men whom I have seen personally in the last thirteen years. I would say that if rehabilitation is our purpose then the men must be classified according to their needs, and there are some of the large number of men in prison who would not be susceptible to, or in need of, the sort of training we have in mind.

I think one would first exclude the fairly small group of psychopaths and those needing specialist treatment, which we have not the resources in most prisons to give. I think one would exclude the group of homosexuals and other sexual deviants who need occupation and stimulus but not training—they are often highly cultured, clever, artistic people well able to earn a living in a profession or trade outside, and not needing great help in vocational training. The confirmed recidivist, the man who has chosen crime as a way of life, the man who has deliberately chosen to be wicked and has maintained his attitude over many years, again would not seem to be susceptible to ordinary training and is a special problem. These three groups, as will be recognised, constitute a fairly small proportion of the total prison population.

Then there are the people we might call the "crisis" offenders, mostly first offenders who come into a prison because of some crisis, domestic, financial, medical, in their lives, and have committed an offence. These people need occupational and vocational training but in the main are unlikely to return to prison.

This does leave, my Lord Chairman, a very large group of men, probably between half and three-quarters of all the men in prison, who may be classified as the socially inadequate. Their offences do not include violence but such things as breaking and entering, larceny, burglary, receiving, fraud, some motor vehicle

offences; and these are some three-quarters of all offences.

The other factor important in their training concerns their age. Over half the adult offenders come in the age range twenty to thirty years, and of the men in training prisons two thirds of them are in this age group; which constitutes a very satisfactory position from the point of view of training. We do feel that this large group of men convicted of non-violent crimes, often petty crimes, who are not old men, could be trained, whilst some of their inadequacies could be supplied, and this is where we feel education has a major part to play.

30. *Lord Wheatley*: I think we have most of this information in the memorandum. Excluding the exceptions, you have mentioned, on which we may have differing views, would education be compulsory for those for whom you deem it desirable?—The short answer to that is yes, Sir.

31. *Mr. Justice Edmund Davies*: May I follow up Lord Wheatley's question? We are talking here of the provision of education as a means of rehabilitation in training. In your paragraph 17 three types are spoken of, the small hard core of persistent confirmed recidivists, sexual deviants, and the first offenders; and then in paragraph 18, you deal with the large group of men eminently suitable for training. That is right, is it not?—Yes.

32. What are we to understand, that the groups in your paragraph 17, and the psychopaths are to receive no educational treatment in prison?—I think the answer there, my Lord Chairman, is that the sort of education they would need is simply that which would provide mental occupation and exercise for them.

33. Such as what?—Our ordinary academic classes, language studies, arts and crafts and appreciation groups of all sorts, Sir.

34. And would that not be the same for the large group? What would you give the large group that would be different?—The large group, Sir, we would consider to be deficient in social skills. In particular we would mention skills of communication, both written and spoken; and, very

urgently needed, skills involving personal relationships. We feel this inadequacy is perhaps the most urgent need of this last group of men. In many cases it is this inadequacy which has brought them directly on to a path which has resulted in their coming to prison.

35. Would that not be true of your third group and first offender who has offended in a crisis?—No, Sir, we do not feel this. This is not necessarily so. The people who offend in a crisis are often very able in communication and very good in personal relationships. It is just that in many cases usually not one crisis but a combination of crises has resulted in a breakdown of the man's morale. This is not universally applicable of course but would be so in a good many cases.

36. *The Hon. S. Silkin*: Were the borderline to be properly drawn between the exceptions and the inclusions, would the difference be, voluntary in the case of the exceptions, although compulsory in the case of the inclusions?—I think this is a fair deduction.

37. *Mr. Iremonger*: My Lord Chairman, supposing one were to accept that there is a group needing compulsory training in what one might for want of a better term call social skills and social relationships. If it were compulsory as part of their treatment in custody, and then the penal system were to move towards the employment of prisoners on an economic wage basis, what would be the resolution of the conflict between the very proper desire of prisoners to take advantage of the opportunity to earn a full wage for their work in prisons and the needs of educational training? Would there not be a feeling that it was rather unfair to put some into unremunerative training while others who might well be in the same category, had work which was going to be more remunerative?—Yes, there would be a very real difficulty here and obviously these factors would have to be taken into consideration in deciding a policy.

I recall a case where a prisoner was well trained—in prison—as a welder. After discharge, he was subsequently re-convicted and the judge questioned him about his previous training. It became clear that

he had added to his engineering abilities in prison, and on leaving had used these merely to help him break more safes. So we had successfully trained him as a workman, but not as a citizen. If the criterion is whether the man is better equipped to face the problems of his life, not merely his vocational problems, then surely it should not be entirely at his disposition how he utilises the quite expensive training facilities—especially if he intended using these merely to help him effectively follow a criminal career. The training available should be comprehensive; the application should be discriminating.

38. *Chairman*: If education was compulsory and if the remuneration for work were to go up considerably, would there not be a number of people who would frankly prefer "lolly" to improvement?

39. *Mr. Iremonger*: Yes, might they not resent being taken off what they would regard as a preferable occupation in which they could earn a wage and contribute towards the upkeep of their families, if they had families? They might resent being stopped doing that simply because of an administrative say-so which said—you really ought to go in for social rehabilitation.—I think, my Lord Chairman, we are not suggesting that a man's whole time should be employed in education. The most I think we could hope for at the moment is that probably half his time would be spent in education. We conceive this to be a good thing from any other point of view, a man spending his morning on productive work and his afternoon in educational practices.

40. *Mr. Justice Edmund Davies*: But he would still earn half as much as his colleague who was allowed to earn all day. If wages go up, how are we going to get over this serious psychological and economic problem? If a man was chosen to do half time work and half time training whereas his apparently equal colleague was on full-time work, saving, assisting his family, would it not have a very deleterious affect on the training?—I think, my Lord Chairman, you will not expect us to argue out all the implications of this very complicated scheme. We would like to see this development of wages and we think it would not be incompatible with the

expansion of education, but on how in detail it would be worked out we would not commit ourselves at the moment.

41. *The Hon. S. Silkin*: There is one very important consideration which does emerge from this. In order to resolve this kind of conflict, do you have in mind that the people who would be among your inclusions would be in separate establishments from those who would be among your exclusions?—This would be essential.

42. *Mr. Iremonger*: Then the conflict would not arise because the prisoner would not see his mate getting what he would consider the better deal?

Chairman: He would still know.

43. *Dr. Gibbens*: I would like to get down to what Mr. Vickers thinks would be done to the inclusives as against the exclusives. What do you have in contemplation when you talk about education in social rehabilitation?—Firstly, Sir, I think we have in mind two processes which are inseparable, first that when a man comes to the prison, a long time, a lot of effort, should be devoted to forming a comprehensive picture of his needs and then, after this, that there should be a good deal of thought given to the preparation of a training programme which should last right through to the day he leaves prison. This might include all sorts of elements, almost certainly some form of vocational training, correspondence courses, special education courses of a month, two months, three months, such techniques as group counselling, all sorts of educational media not orthodox in nature.

As its basis it should adopt the principle, we think, of "learning by doing", in the sense that it is not much good exhorting men in prison to take a certain line but if they can participate in their learning in a more active way this is more likely to be helpful to them. We have for instance, not to be too detailed, this sort of thing in mind; that with his personal relationships a man should have the opportunity of working out in prison either with his colleagues or with people who come into prison, and certainly under expert guidance, all the sorts of situations in which he finds difficulty in reacting in the normal

way. These might be situations at home with children, wife, in-laws, with neighbours. They might be situations at work with fellow workers, shop stewards, foremen, managers; or social situations. But the man would be given in detail the opportunity of seeing how to conduct personal relationships, how to get on with other people, how to resolve things with other people, and not merely given a short course of half a dozen lectures over an extended period. He would be given the opportunity to exercise himself in the social skills. This is not done at the moment and we feel it is a basic part of the man's training.

Without being too detailed this is one of the ways and will exemplify other ways of learning by doing. We think the same sort of technique could apply to communication skills where again many of our men fail dismally. They tend to be extroverts, practical rather than theoretical, slow learners; these are the sort of techniques we feel would help them.

44. Does that involve individual treatment for each prisoner in the regime?—Yes.

45. *Chairman*: Who teaches this and what is the training to teach? You have either been to a teachers' training college or taken a degree and perhaps a diploma in education, but none of those courses qualify one to give this very specialised inculcation of dealing with personal relationships, do they? How is it done? What do you do? What do you put on the time table and so on when you have got into the classroom? How do you set about it?

46. *Mr. Iremonger*: These are the new techniques in paragraph 24. Am I right in thinking we have come to paragraph 24?

47. *Chairman*: I had not come to it. Mr. Vickers has brought us to it.—Could I say we would not pretend to be skilled enough to carry out all the undertakings we have said are desirable? Our jobs are as Tutor Organisers and we have available to us skilled resources, skilled people, trained psychiatrists, doctors, willing to come in. We need their experience to do this sort of thing, if they are given permission to do so. If we wait for

the army of trained psychiatrists and psychologists we hope to have, then I believe we shall wait many, many years, and in the meantime men are going out of prison and coming back again at an alarming rate. We would like to have the opportunity of calling on some expert help, probably voluntary, sometimes paid, and we think in many cases this could be done.

48. *The Hon. S. Silkin*: Would it follow from this that the time would come in the relationship with a particular individual when one could say "he has absorbed all we can readily give him before we can be ready to throw him out into the outside world, and therefore the time has now come either for him to be released or in some way to have his security diminished"? If that is what is in your mind, would that help at any rate in resolving the conflict that was earlier mentioned between the man doing a full day's work and being paid, and the man who has to spend part of his time in this way?—I think this is probably so, my Lord Chairman, but it does involve all sorts of other problems.

We have to cope at the moment with men sent to us without relation to the training facilities in the particular prisons to which they come. This is one of the biggest problems, that we do not get a man sent to us, say, for two years' training and then can fit to him a two-year programme. We get men arriving towards the end of their sentences after serving two or three years. We get some men coming whilst still on appeal. In present conditions in the majority of cases it is not practicable administratively (although desirable from the man's point of view) for the sentence to be matched to the opportunities for training available. Ideally we would like a man to be sentenced with the sort of training he needs—and that could be applied to him—in view; but this is looking a long way to the future, we recognise, and we would not wish to be unrealistic.

49. *Professor Morris*: Could I ask a fairly simple question? I know Borstal does take part in what you might call the diagnosis of the boy. In the prisons, does the Tutor Organiser take part in the reception

Committee or receiving board, so to speak, that settles a man's programme for the period he is going to be in prison?—The practice varies from establishment to establishment and governor to governor. In some cases the Tutor Organiser is fully integrated into the reception board and so on. In other cases there is no proper reception board and the Tutor Organiser would not have his opportunity of giving an educational or other assessment. It varies from prison to prison, regime to regime.

50. *Mr. Millard:* Related to that is the question of teamwork. You have mentioned bringing in, in your social rehabilitation training, psychiatrists, psychologists and so forth. Would you regard this as solely the function of the Tutor Organiser, or part of the teamwork with the medical staff? There is obviously a blurring of the borderline between the two tasks.—We regard this very much as a piece of teamwork. We hope it would be policy implemented by the local governor. May we at least try to initiate some of the programme? This is the answer, I think.

51. *Mr. Iremonger:* Going back to one question and coming back again to the new techniques for another question, I see that in paragraph 19, under the general heading of "INMATE TYPOLOGY" which perhaps I think the layman might like to re-interpret as being personal assessment, the memorandum of evidence says: "Some experiments have taken place on a limited scale towards an inmate typology . . ." and so on. These kinds of experiment are extremely difficult to envisage in the abstract simply from a reference like that. Would it be possible for the Commission, or individual members of the Commission, personally to see what is done and who does it? How can we see it being done and assess it? Then, secondly, again in connection with the new techniques. . . .

Chairman: Could you stop there, or are they linked?

Mr. Iremonger: Yes, they are linked. Where can we actually see these new techniques? Can we go to a place where these things are being done and see the people who are doing them and witness

the thing in operation?—I think that is more a question to be addressed to the Prison Department. You will understand we are here in a very limited capacity, and the experiments to which we refer here are not necessarily going on at the moment. I could name the places where they have taken place but not places where such experiments are going on now. If this question were addressed to the Prison Department they would no doubt be willing to give an answer which would be satisfactory.

52. *The Hon. S. Silkin:* Do the procedures you have in mind differ materially from the procedure for Borstal boys and, if so, in what way?—It is difficult to give a short answer to this because of the types which are seen by different experimenters are not necessarily unified—different people see different types of prisoner. What I have said about being trainable would apply to those in an institution I know, but in other cases other experimenters would see different types. I think it is difficult to give a short answer to this question.

53. *Professor Radzinowicz:* Could you name the institutions?—Yes, I know experiments have taken place at Wandsworth Prison and also at Maidstone Prison; those are two that come readily to mind.

54. *Chairman:* They have taken place and presumably finished?

Mr. Iremonger: I would like personally to follow it up and go and see these places and see what has been or is being done. I am sure Mr. Vickers is right when he says that we must apply to the Prison Department.

Mr. Justice Edmund Davies: Could Mr. Vickers help about this, because there must be records in their files?—Yes, indeed.

55. *Mr. Iremonger:* Would the same thing apply to the techniques of proven value which are referred to, such as character-building situation groups, personality assessments, programmed learning? One has to see them in order to have full knowledge, and if one can then grasp them and classify them as a method one knows what one is talking about. One knows what the treadmill is and knows the disadvantages,

and one may form an opinion as to whether it is good or bad—but this is a concept which may or may not be wrong, and needs to be clarified in the light of personal experience.—Might I be frank and say that the Prison Department are not very keen on innovations of this sort. I think the best thing that could be said is that if permission was secured from the Prison Department and a little notice given, a fairly extensive demonstration of these techniques could be readily arranged.

56. *Chairman*: Laid on—they are not in existence anywhere?—No, we are waiting at the moment at Maidstone Prison for permission to carry out a specific twelve months' programme of this sort, but at the moment permission has not been given; however, I am sure a shorter experiment could be specially laid on if the Prison Department gave permission.

57. *Mr. Millard*: Could we have a very brief description of what some of these activities amount to which are mentioned in paragraph 24—role-playing, and so on?—Yes. The chief thing is that you put the man in the position where he is actually playing a part in a situation comparable to that which he would find in real life. For instance, if a man in prison frequently finds the only way to resolve his differences with other people is to strike a person, he can be conducted through discussions, arguments, disagreements with all sorts of people—colleagues, wife, mother-in-law—and shown alternative issues to his situation, some additional to the one he habitually uses, and, I have no doubt, some preferable to it. This can be done using the drama group as a focal point. It could be done by bringing social workers to act the parts of players in this particular small drama. In other words, the man would learn not by the normal classwork technique of exhortation and instruction but by actually taking part himself in a situation and seeing for himself how things work out. The other benefit from this method is that instead of expecting the man to accept something handed on by a superior such as a teacher or an Assistant Governor, he would be accepting results found from using his own powers in this group, and we have found this to be very significant in a learning situation. He

suspects what is told to him by "authority" or superiors, but he will accept things from people on the same level or from his own experience.

58. *The Hon. S. Silkin*: Could you tell us where we can find these techniques today, outside the penal system?—Yes, these techniques are used quite widely in the youth service. It would not take very much searching to find this sort of thing going on in the youth service.

59. *Mr. Iremonger*: Perhaps we could have some specific information about the training.

60. *Lady Adrian*: It strikes me that training in this type of work must be extremely difficult to do. I am wondering if there is any way of training the trainer?—This is rather off the cuff: I think that some training in these techniques is given, for instance, at the City of Leicester Training College for Youth Leaders; but perhaps I ought not to be quoted on that.

Chairman: Thank you. I think we will try to follow that up and see if we can discover anything. We have rather strayed from the diagnostic role of the Tutor Organiser to new techniques. I will ask my colleagues if they have any further question on paragraph 20 and then we will go through to paragraph 29.

61. *Mrs. Serota*: On the question of new techniques, I wonder if any thought has been given to the use of television in penal institutions—educational television, either through the public service or by closed circuit programmes?—Yes indeed. This is something we should like to see developed. Again I think perhaps we ought to say that education provision in penal establishments is at a fairly elementary stage, and some techniques which are in use freely outside are not in use inside. Television has penetrated to some establishments, but more as an entertainment than from an educational point of view. We feel there is a need for the proper use of propaganda in prison. There should be propaganda of the good type, and we feel there should be a much greater use of visual aids, closed circuit television, exhibitions, and things of that sort, which are normally used by the public relations departments of big concerns. However, as

is well known, you can walk through almost any prison in the land and not see a word of exhortation except for the words "out of bounds". There is no reason why this should be so; it ought to be possible to propagandise the good, and this can be done visually. Closed circuit television, among other things, would be a useful way of doing this.—*Mr. McGrory*: Television is not found in detention centres.

62. My question related to television used for educational purposes in new teaching techniques.—*Mr. Vickers*: It is not in general use. I cannot recall anywhere where television is in use for the purpose you mention. We would like to see it so used, but we do not think it would be a good thing to introduce television indiscriminately solely for entertainment purposes.

63. *Chairman*: Could you explain paragraph 22, where you say that the closure of Latchmere House Allocation Centre is a retrograde step?—*Mr. McGrory*: Yes, I was education officer there. There was the question of the allocation of boys to twenty borstals, all on different training regimes, different methods; and we used to allocate the boys according to age, security risk, type of offence and type of boy. The Assistant Director came down to us last summer and there were a great many cases to be dealt with—this was because of the pressure of the beaches. Our boys were sent to Wormwood Scrubs, who already did the same sort of thing. We dealt with the whole of England except for the metropolitan area, and Wormwood Scrubs dealt with the metropolitan area. Our lads were transferred there, and we opened a detention centre. I know that Tutor Organisers are not now getting the information, the casework, the write-ups of these boys, because quite simply there has been no increase in staff at Wormwood Scrubs. There is an educational psychologist there and he is doing all the boys for allocation in the country. I am sure boys are being allocated, but we at Latchmere took from six weeks to two months to get a boy sorted out.

64. You had him there for that amount of time before you sent him away?—Yes.

The team was myself, the social worker, two or three psychiatrists, the assistant housemaster.

65. So your explanation, in short, is that Latchmere House was able to do a better job than Wormwood Scrubs can do, at the moment?—Yes, largely because Latchmere House was in a far better environment.

66. I see. I was not quite clear about your meaning there. Then paragraph 23: you say it is clear that education has little contribution to make to the deterrent element. Do you consider it has some?—Yes, this is where I jumped the gun at the beginning. I feel the thing has to be worked out.

67. Yes, but do you mean that education has some deterrent element, and if so what?—From the deterrent point of view, I think it has none. The boys have one and a half hours spent in educational programmes.

68. But is it a contribution to the deterrent element?—No.

69. Did you mean, when you said that education has little contribution to make towards the deterrent element, that it has no contribution to make?—I think that is so, yes.

70. *Professor Radzinowicz*: Do you mean that education has little contribution to make to the deterrent element in detention centres, or no contribution to make at all?—No: in detention centres. It has little contribution to make there.

71. *Chairman*: But you are really saying it has substantially no contribution to make because you have not been willing to define what the contribution is—it is non-existent?—Yes.*

Note

* The witnesses have since submitted the following written statement in amplification of their answers on this point:

"If by deterrence is meant restraining people from certain actions by fear of the consequences, then clearly the detention centre and its activities must be 'fearful' in nature.

Since education is something we would want these boys, as others, to indulge in and value throughout their lives it is patently

inconsistent to try to use it as an instrument of fear. We are therefore against class attendance (at, for example, a mathematics class) being established as 'part of the punishment'.

In this sense, education has no contribution to make to the deterrent element in detention centres.

However, from the point of view of preventing a boy from offending again, educational methods may help to inculcate the realisation that certain actions have certain results, and that socially unacceptable actions may have unpleasant personal results. This process is partly in the field of propaganda and partly in the field of social education; it implies a quite different approach from the other. It again points to the need for intelligent and discriminating application of educational processes".

72. *Dr. Gibbens*: I take it that Latchmere House comes under the Surrey Committee, so that if the work alters you inevitably have to alter your work to fit the new designation of the institution? You cannot move around.—I have been taken over by the new Richmond-on-Thames Borough, because Latchmere is in the Borough of Richmond. I did offer to go to Wormwood Scrubs from Latchmere House.

73. *Dr. Gibbens*: . . . as to whether education officers within the present service can move around and take their work and skills with them, or whether they are located in a place because the local education authority is their employer? —Yes.

74. So they would have to stay put—the Tutor Organiser has to conform to the prison and change his job in the location? —That is true.

75. *Chairman*: Do you want to draw a distinction between the contribution that education may have to make in detention centres, that is to say, between the junior detention centres which might contain boys of 14 or 15, and the senior detention centres—or has it a contribution to make in both?—It has a contribution to make to both. In junior centres if you take boys up to 17 there will be largely a preponderance of boys of school age, needing help with general educational studies; but in senior detention centres, 17 to 21, the objectives are different and should be largely related to vocational interests.

76. *The Hon. S. Silk*: Can we go back to the closure of Latchmere House: I think you said that the procedure was concentrated into ten days at Wormwood Scrubs. Is it that concentration only, or is there some other factor in the system—not personalities or individuals but in the system—which you think is insufficient for the boys, and would you also speak about adult prisoners in the same context?—Yes, I think you must regard each one as individual. Unless you have adequate time you cannot do this. It needs careful thought if you are going to do this job of allocation properly.

77. Ten days is inadequate?—Quite inadequate.

78. Apart from the time element, is there any other element which was supplied at Latchmere House which cannot be supplied, or is not being supplied, now? —No, I do not know how the time affects other places. Wormwood Scrubs is cut down because they have to get the boys out—they have a large intake.—*Mr. Vickers*: The only point about the time factor is that a boy, or an adult for that matter, is often emotionally disturbed when he comes to the establishment and is not in the best of condition to be tested or examined. Often we find fairly different results after a week or fortnight has elapsed from the results we found when he first came in. This is quite common.

79. *Mrs. Warburton*: Could I go back to the category of the socially inadequate people, and the need for education of them. It was in a general classification of the people you want to educate. It has been said that there is need for social relationships, communication, learning by doing: does this not then have to include the people who have to deal with the offenders all the time? It is not something that lies only in the field of education, because these are day-to-day relationships. Do you see this as something which would extend to all the staff dealing with them, rather than role-playing on occasions, or treatment in an educational way? I would like a little explanation of this, because this is the category in which you feel education can do the most work.—I agree very much with the suggestion made

by Mrs. Warburton. We would like this work of their education to involve all the staff. In fact if this were the total purpose of the establishment, it would follow that all the staff would be involved in it and we would certainly include the ordinary prison officers. You will probably be aware that the Prison Officers' Association expressed a wish that the individual prison officer should be involved in rehabilitation as one of his prime activities. Certain establishments are moving in this direction, and we can see that a tremendous step forward would be made if all prison officers, instead of viewing their duties as those of security and containment, would extend them to rehabilitation and training. Some do it at present, in an endeavour to help their fellow men—and do it very well—but there is a great need for training to be given and for this to be extended and for all this effort to be co-ordinated. We fully agree that all should be involved in it, including the prison officer, and that a great step forward would take place if this could happen. Perhaps I should add that where you have a person not skilled in techniques of rehabilitation and not given to see this as his objective, he can easily fall back and retreat on the demands of security as something he recognises to be easily performed and within his scope.

80. *Professor Morris:* As a supplementary to Mrs. Warburton's question, this issue of co-ordination, of the need for the whole prison to be involved in the re-educational process, is not this proposal what the system of having Assistant Governors is designed to develop?—Yes, it is traditional that Assistant Governors are responsible for training, but it remains true that if, in fact, the Prison Department does not see rehabilitation as being within the function of training, then it will not be undertaken at local level.

Chairman: Yes, I think you have made that point.

81. *Professor Morris:* May I refer to paragraph 26? Is it that members of the education service have wanted to carry out experiments and have been prevented from doing so by Head Office? Where does the difficulty lie? In the opening

remarks you give us the impression that, if anything, too much responsibility was laid on the local prisons and too little central guidance and directive was given. Is there a blank negative on experiment and research, and what in fact is the situation?—Well, whilst there is some local direction, anything in the way of a local experiment must be governed by the funds available centrally, and anything proposed in the nature of experiment must be put up to the Prison Department who, on financial grounds, may turn it down. This happens fairly often. In the current year I can think of several establishments who wanted to experiment with the initial teaching alphabet, and this was turned down. In another establishment a project on programmed learning techniques was proposed, and permission was refused on the grounds of expense; but in general there is what we feel to be a discouraging response to applications to conduct experiments. We feel, in fairness, it is principally governed by financial considerations, but the fact remains that experiment is not encouraged and we could produce a number of examples of applications being turned down at Head Office level.

82. *Mr. Millard:* The last two questions in this series of paragraphs raise the fundamental issue as to the aegis under which curricula should be set and relations with the Home Office and the Department of Education and Science. Perhaps we could raise these points again when we come to the staff structure.

83. *Mrs. Warburton:* Could I ask one question about experiments: is it very rigid security rules that prevent experiments? Is this one of the reasons in addition to finance?—I think it is a very minor reason in this particular context. I cannot think of any case where security has been put forward as the grounds for refusal.

84. *Professor Morris:* And discipline?—No.

85. *Professor Radzinowicz:* This reluctance to experiment, we know this is a normal feature of prison life and prison administration, but there is a question of degree. Would you say that this reluctance, if it is there, is to be explained by the

fact that there is no spokesman for your activities of sufficiently high level to fight for it at headquarters?—The answer to this is a very emphatic "yes", Sir.

86. *Chairman*: If we may take paragraphs 30 to 32, this is an important subject but I do not think we shall have any questions to ask you in that field this afternoon because it is rather a separate, though important field. Perhaps we may go on to the next group of questions covering paragraphs 33 to 39.

87. *Mr. Justice Edmund Davies*: In paragraph 35 you mention that among the implications that the acceptance of a wider role for education would have is an incursion into the working day. Are we right in thinking that in the past any kind of educational course which threatened that was something which was not welcomed by those administering the prisons?—Yes, that is so.

88. And indeed when you are launched on an educational lesson, you speak somewhere of that being broken into for a variety of reasons—haircuts, and jobs of one kind or another. Would that happen when you have evening classes?—*Mr. McGrory*: Yes, these things and perhaps such things as a late visit. In Detention Centres evening classes are compulsory so interruptions are to some extent inevitable. In Borstal allocation centres where education is not compulsory, difficulties would not be so great.

89. *Lord Wheatley*: What is the distinction between breaking into the ordinary working day in the case of illiterates and breaking into the working day in the case of non-illiterates who can be educated?—For illiterates this is allowed and it is in the rules—*Mr. Vickers*: We think there is no difference in principle.

90. *Chairman*: You do not agree with the distinction?—*Mr. McGrory*: No, there are some bright boys, who for different reasons, equally need educational provision.

91. *Lady Adrian*: The view has been expressed that, at any rate for adults, education can be given as further education after the working day. I am thinking

now definitely of adults, not of Borstal people or of the younger people who need broad education. Do you agree with that? Do you think there is definitely not time or that there could be time?—*Mr. Vickers*: We think this is the best thing to do in the circumstances, but one must bear in mind that men come to evening classes at the end of the day's work and they are not in the freshest frame of mind to absorb what is given to them. From an educational point of view it is obviously much better to have the man when his brain is fresh—certainly not right at the end of the day. We think there are educational disadvantages in the evenings.

92. Yes, I see; but you think this is the best way of dealing with it at the moment? One does realise that further education for the adult outside—if, of course, he wants to take it—can achieve great results, for instance, in a change of occupation from a purely repetitive factory job to something more educative.—There are some pertinent differences though, chiefly that the person who in the outside world indulges in further education also has opportunities available to him—opportunities for recreation and relaxation—which are not available in the prison. In one prison we have a daytime commercial course for 12 to 15 men, who are studying fulltime, morning, afternoon and some evenings, commercial and other subjects; and one of the difficulties has been to find sufficient opportunities of relaxation for them. They cannot go out and take a walk in the country or go fishing, and we find that stresses build up in the group which would not be built up in a comparable group outside. Within the existing limitations, education in the evenings is the best that can be done. We would prefer to see daytime education.

93. *Chairman*: Paragraph 39 mentioned the possibilities of day release facilities being extended to suitable students and recommends investigation. Would you care to enlarge on that statement and say whether you see it as feasible for day release facilities to be applied in closed prisons?—Yes, men are released from prisons for a number of reasons temporarily. They go to visit hospitals outside for special treatment, they join working

parties outside prisons in firms and in private houses, and this is done in the greater number of prisons in the country, although the numbers concerned are fairly small. In other words, they are selected men who are not felt to be security risks. We have also men in prison who wish to study a particular subject which may not be available at that particular prison and they could study at a local technical college if the prison authorities were willing to let them go and if the college was willing to receive them. The college is usually willing to receive a student, but there are difficulties in getting the principle accepted that certain men could go out. There would be objections to particular individuals, but we think that from the vocational and general training point of view it would be very helpful if the general principle could be established that where a man is not a security risk and it is in the interests of his future to have this extra vocational training, he should be allowed to attend evening classes, for instance.

94. *Mr. Justice Edmund Davies:* We have heard from another source that has been done. Have you any knowledge of those methods?—Yes, I think it is done in Borstals, and probably in Leyhill Prison.

95. *Mrs. Warburton:* Could we ask how the ordinary students would react? Would they help them?—*Mr. Edwards:* Yes. I gather in some places this is not welcome. I cannot imagine why. If the Governor releases them they are presumably a safe risk.

96. *Chairman:* There would be the risk of misappropriation of equipment, or something like that?—Yes, but this is not an unknown hazard in other establishments.

97. *Lady Adrian:* What about the other students—would they object? You do not think they would.

98. *Professor Morris:* What proportion of adult prisoners are illiterate and what success do you have in trying to remedy this?—*Mr. Vickers:* For prisons, an average of 4 per cent of inmates is fairly typical: they are illiterate and can do no more, if in fact they do this, than write their own names.

99. *Chairman:* Is this prisons only?—Prisons only. Of semi-literates, those with a very low level of literacy, there are about 15-16 per cent in prisons. Classes for them are compulsory, though again we hardly ever use the word, but almost every man who is illiterate goes on to a daytime class where he receives generally about one-and-a-quarter hours' instruction a day. This is about the limit he can cope with. For this purpose we have full-time teachers—often women teachers, who are particularly successful in this work—and we find that in order to get good results they need the man for probably about a year. Less time than this is often not effective. We can distinguish between those who are dull and backward, who take a long time to make progress, and those who have simply not had an opportunity. Into this latter class would come gypsies and fairground people who travel around, people who have been sick in their early days, and so on, and if they are reasonably intelligent they learn fairly quickly. Sometimes after six or nine months they can be put on a vocational training course, and sometimes they do reasonably well.

100. *Professor Morris:* What success do you have in remedying this?—It is difficult to give figures, but at the conclusion of a man's period of instruction we would find probably three-quarters had reached the level where they could write a reasonable letter—this is to say a page letter to someone at home. The disturbing factor is if they go out of prison and come back on another sentence it is often as if their minds have been wiped clean, and we have to start all over again. They are people of very low memory capabilities and what they have learned does not persist. The experience is that, returning on subsequent conviction, we often have to start all over again.

101. *The Hon. S. Silkin:* Might I ask a general question? Do you agree that work organised on industrial lines provides valuable training and, if so, do you see that as part and parcel of what you yourselves are concerned with, or as in conflict with it? If the latter, how do you resolve the conflict from the training point of view?—We do see this as

something which is very valuable, Sir. We think it is necessary that along with training in the use of mechanical skills and techniques, new methods and so on, a man should be taught the personal qualities which make a good workman; but we think the two things must go hand in hand and therefore along with the technical instruction there should be a teacher who can emphasise these other aspects. In other words, it is a characteristic of men in prison that they may be quite good workers but, because of a lack in their personal relationships, they may lose a job—not because they are bad workmen but because they are bad at relationships. We feel there should be a strong content of this sort of subject-matter—relationship and communication techniques, and so on—in their general education. We certainly think there should be no conflict between modern industrial training and education in the broader sense: the two are complementary.

102. *Chairman*: Thank you. Paragraph 40 is an introductory heading, I think. Perhaps we may now go on to paragraphs 41 to 46 under the heading of staff structure.

103. *Mr. Iremonger*: As a background to the kind of improvements envisaged in this section, I wonder if we could be given an idea in practical human terms of the relationship in which the prison educator finds himself in the field, with those to whom he is responsible in the prison, as he puts out his personal "antennae"? What are the pressures and personal influences that come to bear on him—who does he look to for support, where do his frustrations come from, where does his assistance come from? What is the role of the Governor?—This is difficult, because not only is the general picture confused but the situation varies from establishment to establishment. First, the Tutor Organiser is appointed by the local education authority but the Prison Department and the Inspector of Education have a say in his appointment. Thereafter the local education authority is reimbursed by the Prison Department, who issue to him a large number of instructions through his local governor.

104. *Mr. Millard*: Does he remain an employee of the local education authority? —Yes. Thereafter it is very much a question of the Tutor Organiser establishing himself in the prison, and in this case he has to make his number with the Governor, as chief administrator, the chief officer as being in charge of security the chaplain, the medical officer. In fact, the prison officers' attitude to him and his own success will very much depend on the relationship the Tutor Organiser is able to achieve with each of these people. His frustrations come very much from the administrative drawback to the civil service in that time is consumed in replying to letters, and money is not forthcoming in as generous a supply as he would like, and there is a general reluctance to permit experiment, as we have said, and so on. His allies may well be the governor, if he has achieved a good relationship, and one of H.M. Inspectors, one of whom is allocated to a group of prisons, and there are a number of them over the whole country. That is a brief survey of the picture.

105. *Lord Wheatley*: Do you consider it desirable that Tutor Organisers and other educationalists, while integrating themselves with work in the prisons, should remain distinct from the prison service? —Yes, we think this is essential. We think that if we were fully integrated we should not be in such a good position to fulfil one of the chief functions, which is to bring a breath of fresh air from the outside. We see our function in the educational establishments as a "letting in of light", and we think this activity would be restricted if we became civil servants. In practical terms, this would mean we should be very much tied to the policy of the particular governor in a particular establishment without having any opportunity to do very much about it. At least at the moment Tutor Organisers do tend to carry on in establishments, whereas governors and other officers come and go, and are thus fairly able to retain more continuity of policy in the education section than is possible through the whole establishment.

106. I am not disagreeing with your view, but would that still prevail if you had the

appointment of a director and assistant director of education, and a regional education officer, all of whom would be integrated in the service?—We think the grades you mention would have to be civil servants. We think there may be some difficulty here, but it would depend very much on whether the sort of policy we have indicated at the top is in fact put there: if the policy sees rehabilitation as the main theme, then we hope this would be implemented in every establishment.

107. *Chairman*: Would the effect be that the Tutor Organiser would then have one boss, and that would be through the regional man to the director and assistant director?—Yes.

108. *Mr. Millard*: And would you envisage the assistant director and regional directors as being educationalists?—Yes. *Mr. McGrory*: They would become civil servants then.

109. *Professor Radzinowicz*: Is it not true to say that there is a certain lack of integration between you and the persons administering the establishments—that you may be regarded by some of the governors as intruders, a foreign element?—*Mr. Vickers*: Yes.

110. If this is so, would it be true to say, that if you got a strong representation at the very top it would be better for the general atmosphere and relationship of your work if you could also be integrated into the hierarchy of the whole set up?—We think it would be very useful to have the sort of person you have suggested at the top, but we do not think integration generally would be a good thing, for the reasons we have mentioned—that we should become civil servants liable to posting from establishment to establishment, thus depriving ourselves of one of the most valuable resources we have at the moment, which is numerous contacts in the local community. We know headmasters, we know the educational system, and it is by being in contact with these people that we can make a valuable contribution. If a man is posted from prison to prison, county to county, he would lose this contact. It is a great help.

111. Is this a unanimous view: is this the view of your colleagues, who think in the

same strong way?—*Mr. McGrory*: Oh yes.

112. You share the same vigorous view about the disadvantages being more substantial than the advantages?—*Mr. McGrory*: Oh yes.—*Mr. Vickers*: I think in fairness we ought to say there are possibly two or three amongst our total ranks who would not share this opinion, but the number is no higher than that.

113. *Miss Fletcher-Moulton*: Would you still feel this if the climate changed—supposing the "breath of fresh air" was already blowing in regard to the hierarchy, would you still feel this?—It would still remain true that if we become civil servants we would be moved around and would cut off some of our lifelines; and this is a very valuable asset.

114. *Chairman*: It would not be very unfair, perhaps, to say you are looking for the best of more than one world, would it?—Possibly not, Sir.

115. *Mrs. Warburton*: I feel that if education is so vitally important and integrally a part of the running of the prison, being outside the prison service might have great handicaps. Do you never see the organisation of education in prisons as parallel with the medical service? And why can you not take up somebody else's lifeline? I know it is much more attractive to have your own, but would it not be a good idea to pick up lifelines which were there already?—This is not an impossible situation, I agree. Our experience is that a man can make a greater contribution after he has been in post several years than when he first comes to it. It will be appreciated that the prison service is very much preoccupied with status, and status very much depends on time in post. Any new arrival makes it clear how long he has been in the prison service, and the newly-arrived Tutor Organiser is in a difficult position. We think that if he were perpetually a "new boy", in what is in any case a new branch, he would be at a severe disadvantage. Our experience is that it takes at least three years for a man to establish himself with the prison authorities, to make his best contribution to the work.

116. *Chairman*: Are you suggesting that the Tutor Organiser, having once taken up this work in prison, should as it were become a specialist in prison educational work, or do you envisage that there should be a movement in and out, so that some could remain permanently in prison educational work? There are two alternatives, the specialist and the "in and out".—We feel it is highly desirable that a man should become a specialist. It is a complicated world, and we feel we can give of our best by being in it longer, and most of the people in it are people who hope to make a career in it.

117. Would that be your general view, would you think that is right?—*Mr. McGrory*: Yes, as long as there are plenty of facilities for outside contact. You must have those, otherwise you stagnate.

118. *Lord Wheatley*: What is the practical position today with regard to Tutor Organisers being released to go on courses?—The Tutor Organisers are running their own conferences, etc., and very few get to other courses. We would like to see much greater provision in this respect.

119. Do any get to courses, and is it done in conjunction with the Prison Department or with their own local authority, or what?—It is done through the Prison Department, and usually the difficulty is a practical one—there is difficulty in releasing people from their duties.

120. *The Hon. S. Silkin*: Is the point that you are making about not being part of the civil service anything more than that at present in the prison education service you remain in the same area for a pretty long period of time? If that were guaranteed to happen, would there be any remaining objection to being part and parcel of the civil service structure which would enable you to go up automatically to Assistant Director of Education, and so on?—*Mr. McGrory*: This is not the point really. I do not wish to denigrate the civil service, but this question of education—I think you can only do this job in these circumstances if you have that little bit of independence. This is not pie in the sky. This is reasonably felt by all Tutor Organisers. One you are a servant of the

governor, one of his staff in the prison—this happens now, mind you—and once you are in the set-up, a governor could make life very difficult, depending on the type of regime. I think we must retain this little bit of freedom.

121. Do you not get that with the educational channel running parallel with the administrative channel?—No.—*Mr. Vickers*: It would be fair to point out that some of the more interesting experiments which have come about in prison education would not have occurred if we had been civil servants, because these are things which are not in the book. There is a certain value in being outside the pattern, and this has enabled some experiments to be introduced.

122. *Lord Wheatley*: Is the same principle not applied with education authorities in the employment of teachers?—Not to such a degree.—*Mr. McGrory*: You could move from school to school but not from prison to prison.

123. *Lord Wheatley*: That depends on the structure, does it not? You are contemplating an entirely different structure with an assistant director, to whom you will be answerable, presumably, rather than to the governor.

Chairman: Professionally.

Lord Wheatley: Yes, and working within a scheme devised by him, in collaboration with the other authorities. I think, if I may say so, what you are doing is answering the question on the basis of the present structure, when what we contemplate is what would happen if the structure you propose were in operation.

124. *Chairman*: I think one of our colleagues did ask you whether you would still feel like that, even with the new structure, and you said you thought so, on balance.—We would still want some independence.

125. *Mr. Iremonger*: We have been discussing all this on the assumption that the penal system will for a long time remain basically as it is. Supposing one were to cast one's mind into the future and envisage that the view might prevail that the function of custody in dealing

with offenders should be very much more limited than we have been accustomed to regard it. Supposing prison population were to be drastically reduced and a very large number of those offenders who are now treated in custody were to be treated in comparative freedom under some kind of administration, which it would be futile to now envisage in too great detail and supposing the greater part of penal treatment were out of custody, would you say that the contribution which the educationalist could make would most probably be to those who could be treated in freedom, and those to be treated in custody would be those who would be least able to benefit from the prime educational process?

Chairman: That is a very broad question. You will throw it back to us, will you?

126. *Mr. Justice Edmund Davies:* The Association of Teachers in Penal Establishments, whose representatives we are pleased to have with us to day, say they represent all Tutor Organisers and educational staff employed in penal institutions. I will read, if I may, one statement from a memorandum we have had presented to us from a certain source:—"If there were special educational techniques which were effective in turning inmates away from crime, there might be a case for a separate educational service in prisons, borstals and so on." With that passage in mind, ought one to envisage that the good Tutor Organiser will be really indistinguishable from the good principal of a technical institution outside? Or ought he to have special training and special qualities to fit him for a very special task—a part, obviously from having personal qualities of sympathy, and so on, which are, while desirable outside, perhaps not as important as inside. Is there any special training that one ought to have and, if so, is it available at the moment?—*Mr. Vickers:* I think the answer is that special training is desirable. Short of university courses which, for practical reasons, most of our men could not take up, there is little other training. We think it would be very useful if all Tutor Organisers could have university training

in this specialised field. Some few have, but not many.

127. You say university training in this specialised field? What are the topics?—*Delinquency, psychology, sociology generally—that sort of field—but we do see ourselves as different from the head of a normal technical institute in that our students are different from his, and we feel we need special equipment to deal with their special attitudes and personalities.*

128. Special equipment?—You mean mechanical equipment? This would be helpful, but not so important as special training. We would like to see special equipment but even more helpful would be special training.

129. Would you agree with what seems to be implied in the passage I quoted, that there are no special educational techniques effective in turning inmates away from crime, or having a tendency so to do?—*Outside psychiatric techniques, which we have specifically excluded—I think we have said that we would use conventional educational techniques—there is nothing special or unique about the treatment we propose. What we are saying is that these ordinary educational techniques are not used in a co-ordinated way to achieve the results we see as being desirable. We are making no unique claims for the methods we have suggested. We are saying that if these techniques were applied in an intelligent way to those capable of responding, less men would return to crime than do so now.*

130. *Mr. Iremonger:* Does the last answer not conflict rather with what we were being told about new techniques?—*Could I elaborate? The techniques are new in the sense that they are new in prisons; they are not new to other educational spheres.*

131. *Mr. Millard:* The short service appointments mentioned in paragraph 41(d) are presumably appointments made by the local education authorities for this limited period, and one knows the idea in theory is that people would get "stale". They have to stay longer in the present education service. Is there in practice much

coming and going? Do many people come in for only a few years and then go, or do most of you stay in it all your life?—We would rather go before secondment periods are up; very few have been recalled at the end of a period of secondment. If a person does go, it is probably due to frustration. There are a few of us who have no secondment, but they are rare. The variety of periods of tenure is amazing in our set-up—from three years to life—but I think I am right in saying that very few have gone at the end of secondment (five to seven years). From about ten years ago, when appointments in this area started being made, people were appointed without any restriction on their tenure of service, but in the last few years, at the instigation of the Ministry of Education Inspectorate, the tenure has been limited and most appointments at the moment are being made for five/seven years and then renewable; but a man will leave the service at the end of that time rather than have his career unknown from year to year.

132. This is purely Tutor Organisers?—Yes.

133. *Chairman*: Perhaps we now may turn to paragraphs 47 to 49, financial arrangements. We wondered what the particular reason was why an inmate should be charged so heavily for an article which he has constructed in his spare time?—The regulations issued by the Prison Department are that articles which are made in handicraft classes are priced by a pricing committee of the members of the staff of the establishment, and the pricing committee is directed that the price charged to the inmate must not be less than the price chargeable in the area in a shop. This means that whilst the cost of the material of the article may be quite small, say five shillings, if the article which he produces is worth £2 locally the price charged must be closely related to this figure.

134. What is the theory behind that?—We are at a loss to know.

135. *Lord Wheatley*: They are afraid of competition.—But it is such a small volume of work.

136. Yes, I know; but that is the principle. May I ask on paragraphs 47 and 48, I gather what you are really asking for is an imprest that you can operate on yourself. At the present time do you require to requisition for everything?—In the last two or three days the Prison Department has made a small imprest which varies between £65 and £155 per annum, otherwise everything is requisitioned. This would cover textbooks, paper, classroom equipment.

137. That is £65 to £155 per annum?—I do not know of a prison which has been given less than £65 or more than £155.—*Mr. McGrory*: Taking the basis of £155 per year, and the turnover from January to now—we have received 350 boys in 1965, so if you do a quick sum I think it comes out at four shillings a head, and out of that I have to buy wood for woodwork classes. There is a local agency for paper, and I have to buy textbooks. How they arrive at this *per capita*, I do not know. No other money is available.

138. *Chairman*: This is just an amount to cover certain things?—*Mr. Vickers*: It is supposed to cover anything which is not officially supplied through H.M.S.O.

139. *Mr. Iremonger*: Referring to paragraph 49, the explanation suggested is that there must not be competition with local people, and so on. Those of you who have experience of technical institutions where the students make things and at the end of the term they sometimes have an exhibition of the work done—can these students not buy the things?—*Mr. Edwards*: If they pay for the material, they possess them already.

140. *Lady Adrian*: You say that the cost of the materials may only be five shillings but they pay £2 for the article. Who gets the £2?—*Mr. Vickers*: The establishment will make a profit at the end of the year, and this is returned to the Prison Department.

141. It does not go to financing other activities?—No, we have asked for this to be done on many occasions, but it goes back to the Prison Department.

142. *Chairman*: Paragraph 52 on clerical assistance, I would like to know who

decides what clerical assistance is necessary. Is it decided in the prison service or by the local education authority?—Again, there is no uniformity of practice here. The local education authority is normally not involved. It has been the prison governor, and sometimes head office. Again, a compromise has been effected, and sometimes the clerical work has been done by prison officers and sometimes by inmates. We feel there are serious objections to the latter course.

143. *The Hon. S. Silkin*: Do you not feel that some of the difficulties mentioned in paragraphs 50 and 51 would be obviated if you were part and parcel of the prison service?—We feel that there should be no difficulty in making arrangements now. Where a clerical officer would be available to us in that situation, one should be available now; we do not think there is a difference in the situation.

144. *Chairman*: As regards office equipment, do you find yourselves rather the Cinderella there, or is it a question of making a claim for the part-time use of office equipment?—In the case of recent new appointments, the Prison Department have said they do not consider it should be necessary for a Tutor Organiser to have a typewriter; and this battle occurs over almost every appointment. Most Tutor Organisers after a time get typewriters, but the provision is not officially approved.

145. I should not have thought that anybody could function anywhere these days without a typewriter. It seems to me you have to start by producing something for your classes.—Yes, we can document this: there was one case of a recent appointment where great difficulty was experienced and by people coming into post to find no typewriter, no chair, sometimes even no office.

146. The moral is that we all ought to learn typewriting, because we could then do without secretarial assistance.—We are not talking about typists in this case, but typewriters. We expect to do our own typewriting, but there is no typewriter.

147. *The Hon. S. Silkin*: Presumably there are these machines in the prisons.

Is the position that you go to the administrative staff and say "Please may we borrow them?" and they say no, because you are Tutor Organisers?—Not exactly; where the Tutor Organiser has no typewriter, material must either be hand-written, or must be taken to an office where there is a typewriter and take its place in the queue.

148. *Chairman*: It would seem to be far better to let people have their own typewriters.

149. *The Hon. S. Silkin*: But there are other things, dictating machines and photo copiers, and so on.—Yes; in one prison there is a case of a typist in another part of the prison who cannot move over to the education office. There is only work for her for part of the time, so there is a typist only partly employed and a Tutor Organiser who cannot get typing done; and this is the situation.

150. *Chairman*: Yes, I think we have got the position. May we now move on to the next section, paragraphs 53 and 54, prison staff training.—Is it in order for us to make an extra point on paragraph 50?

151. Certainly.—We should like to make the point that the use of inmates is giving rise to all sorts of difficulties, particularly in view of happenings in some prisons where inmates have been suspected of using official mail. We have to use inmates who do have access to paper, and we feel that in many cases inmates have access to semi-confidential documents, and this can give rise to all sorts of abuses. It is quite a usual practice in the prison service for the Tutor Organiser to have an inmate as an assistant. Sometimes they are of very doubtful quality—I can quote a case where a Tutor Organiser had three inmate assistants in a row, each of whom had a history of mental trouble; this is obviously very undesirable. We would like to see proper provision made and inmates not to be used in this way.

152. *Professor Morris*: Referring to paragraph 53, staff training is something which is exceedingly important. The same kind of development is occurring both on the medical psychiatric side and the psychology side. They are both trying to develop staff training. What relationships do you

bave with them? Are there three individual efforts being made, or are they co-ordinated?—The staff college at Wakefield covers general training of prison officers.

153. I am referring to continuing education actually, at the local level.—At the moment we have virtually no part in this at all. We do not take part in staff training. We are not involved at all. Mostly a prison officer is allocated to be training officer for the prison, and he takes under his wing the young officers coming in, but the training he gives mostly involves acquainting them with the regulations.

154. But there is a fair amount of activity, particularly in this human relations field, to which you attach so much importance. Psychologists in the prison service and psychiatrists and doctors in the prison service are anxious to develop training of staff at the local level.—We are not involved in this at all.

155. And the reasons for that?—I think it is because we feel it would be presumptuous of us to initiate it, and we would look for this to be initiated at the top.

156. In the next paragraph you refer to the authority to do so.—If the prison governor were to say "Can you organise such and such a course for 12 prison officers?" we should say "Yes, we can do this", and we should call on the local education authorities to do this.

157. *Lord Wheatley*: What steps have you in contemplation about increasing the number of courses not covered at the staff college?—The steps we have mentioned before regarding human relations. The staff college is not covering them quickly enough, in view of the number of men involved. In a prison with 60 officers it would be several years before every officer has been on a course.

158. *Mr. Justice Edmund Davies*: How long is a course?

Lord Wheatley: They vary from some weeks to a very extended course of three months.

Chairman: You have in mind short courses?—Yes, a week's duration, or even week-end courses on special subjects.

159. *Chairman*: Now on the last page I think the conclusion has been fairly clearly stated.

160. *Mrs. Serota*: Might I ask whether the H.M.I.s publish their reports, as they do in schools?—They are published, but they are marked confidential and the information is not to be conveyed to anybody unauthorised, and therefore they circulate in a limited way.

161. But I suppose they go to governors in the case of prison officers?—To the prison governor, and I think probably that is all.

162. *Chairman*: Are they printed?—Yes.

163. *Mrs. Serota*: Not even to Tutor Organisers?

Chairman: Through the governor, probably?—The Tutor Organisers see them.

164. *Professor Radzinowicz*: Do you have national conferences?—Yes, the practice until a few years ago was that the Prison Department organised educational conferences once every two years, but two years ago we started organising our own conferences as an organisation. We have had a second one this spring, and we have had no advice that the prisons are holding one this year.

165. Do you have some representation from prisons and institutions attending your conferences?—No, we have had officials attending—this year the Assistant Under Secretary of State, Mr. Fairn, and last year Mr. Kenyon. This is one of the advantages to be gained by being independent. We have not been inhibited by our choice of speaker, and we have been able to have more invigorating conferences than heretofore.

166. And finally do you get grants for foreign travel?—No.

167. Never?—Never.

168. *Chairman*: Finally, have you anything to add about the link between educational and vocational training? Is there anything else you want to say apart from what you have said already?—No, I do not think so, except that we do

look forward to a time in the future when these branches of vocation training, physical education and ordinary prison education are united in one branch.

169. Vocational, physical and ordinary?—Yes.

170. *The Hon. S. Silkin*: I wonder if I might ask a question on paragraph 59? Do you see the next step as being a controlled experiment to ascertain whether your ideas are right, or as being something which accepts that they are?—No, and what we would very much like to see is permission given—in fact more than permission, direction—for controlled experiments in certain areas to be conducted in different parts of the country, and they should be properly organised with the full support of the prison administration and the results should be objectively assessed. This is what we would like to see as the next step.

171. *Lord Wheatley*: In order to get it into perspective, have you contemplated that that should be done alongside progressive ideas in the other branches, vocational training and physical education? In other words, is it better to do this experiment as a whole rather than in isolated groups?—The disadvantage we see in the whole is that it is likely to take a much greater length of time. We would like to see it as a whole if it could be done in a shorter time.

172. But is it not better for you to see it against the full perspective of other changes that may have to take place, as part of an integrated system and not just in isolation?—I think we would agree, but our fear is that if we wait for the whole to improve it may take a very long time.—*Mr. McGroarty*: This is the burden of paragraph 24.

Chairman: Yes, this is a happy note to end on.

173. *Dr. Gibbens*: Do you mean that one institution might be set aside for a specific educational purpose—this would be the sort of thing you have in mind, that the education should be made the main emphasis of some particular institution, in order to see what effect it would have?—Education is training—training the whole man. A controlled experiment could well take place in a particular institution.

174. *Lady Adrian*: You are really equating education with rehabilitation?—*Dr. Gibbens*: It is a question of your doing it rather than a group of experts—do you feel you could do this on your own?—*Mr. Vickers*: No, we want very much to be part of a team doing this, and our complaint is that no one is doing it. If we can set the ball rolling we shall be only too happy to take a minor part in it. We are concerned that something should happen.

175. *Lady Adrian*: In fact you say that the educational method provides the best way; would it not be more true to say one of the best ways?—Yes.

176. *Chairman*: You accept Lady Adrian's amendment there?—Yes.

177. I think it would be the wish of my colleagues that I should thank you very warmly for coming along this afternoon to help us. What you have said in supplementation of your useful written evidence will help us very much. Thank you.—Thank you.

(The proceedings were terminated)

MINUTES OF EVIDENCE TAKEN BEFORE THE Royal Commission on the Penal System in England and Wales

Witnesses: Mr. CHARLES VARNEY Mrs. ELLA SALTHOUSE Mr. MAURICE BALK Mr. RALPH BOURKE-HALIBURTON Mr. LEONARD GIBSON	}	of the Prison Reform Council.
---	---	----------------------------------

Tuesday, 15th June 1965

Present:

The Rt. Hon. VISCOUNT AMORY, G.C.M.G. (*Chairman*)

The LADY ADRIAN, D.B.E.

Mr. DAVID BASNETT

The Hon. Mr. JUSTICE EDMUND DAVIES

The Rt. REVEREND THE BISHOP OF EXETER

Dr. T. C. N. GIBBENS, M.B.E.

Mr. R. E. MILLARD

Professor J. N. MORRIS

Professor L. RADZINOWICZ

The Hon. S. C. SILKIN, Q.C., M.P.

Mrs. ELIOT WARBURTON, O.B.E.

The Rt. Hon. LORD WHEATLEY

The BARONESS WOOTTON OF ABINGER

Mr. A. ALEXANDER, O.B.E. (*N. Ireland
Observer*)

Mr. A. J. E. BRENNAN (*Secretary*)

Note: The Royal Commission had before it, as a basis for its questions, the Council's pamphlet, "Inside Story".*

* Housmans, 1962.

EXAMINATION OF WITNESSES

178. *Chairman:* Ladies and gentlemen, we are grateful to you for coming along this afternoon to help us. We have had our names put up so that you can see the member of the Commission who is asking you questions at any time. We should like just to remind you to start with that our task is to have a look at the penal system as a whole. It is a long-term enquiry, and therefore we are particularly interested in principles and the execution of principles rather than in details of administration; but you are fully entitled to bring to our notice details of administration as an illustration of the working out of principles. We have treated for this purpose your pamphlet "Inside Story" as the written memorandum of evidence which

we would normally expect from witnesses before we asked them for oral evidence.

There are two or three questions I would like to ask you of a general nature. Then my colleagues I know would like to ask further questions. May I start by asking you if you could give us some idea of the present size of your Council and the source of membership?—*Mr. Varney:* Yes. The Prison Reform Council first functioned in 1941, and we were able to step into the gap in this business of research into the prison system. One of the difficulties is in trying to get information. You have to be sure you will get reliable information, and the opportunity came when quite a number of men and women during the war found themselves in prison

and found conditions there which to them were an offence against their social conscience. So we founded this Council. Then in 1948 the Criminal Justice Act came into force and there were certain influences there that satisfied us that for the time being we had reached a stage where we could gracefully retire. We were up against the difficulty with conscientious objectors not going into prison, that we found our information drying up. Then in 1952-53 you have this development again—a new form of conscientious objection. The men reacted in precisely the same manner. They came to me to inquire what could be done about these conditions. We have now been carrying on this work of acquiring information from the most reliable sources we can get. The result of the research we have made has taken very definite directions. We have reached a point where we are quite sure among other matters that we ought to embrace all public opinion as the conditions relating to medical treatment in the prison services, one which we want to push this time. For this reason the type of witness we have brought along will be able to speak with some authority and personal experience of this. Equally we have directed our inquiries towards the treatment that can result on people who are relatively defenceless in the sense that they are in prison and somewhat inarticulate. One of our witnesses will tell you of the treatment he has received which resulted in a beating up. If I may interject here something else, I have received this morning a letter which draws attention to the fact that straitjackets have been abolished in hospitals but are still being used in the prison service. They quote an article from the *Guardian* of 1963—I understand it appeared in the London letter of 1963—and the object of drawing attention to this was to try and get the matter brought into the open at this stage. I would like your permission to leave this letter with you because if there is evidence of this then it obviously is archaic and out of date.

179. Certainly leave the letter. I would just remind you of the question I asked you, which was could you tell us about the scale of the membership.—The membership is about 100 members and we have a

small executive functioning of about six members. Every member of the executive has at some time or other had personal experience of prison. We have all been in prison.

180. Does that apply to all your 100 members?—I would say without being too precise, a very high percentage. That is as near as I can say. They are a purely voluntary group. We have no paid servants. In other words, we are amateurs, and in that sense I would say we are satisfied we have done the job.

181. Has that experience mainly been in local prisons?—We have one here who has been in Armley in Leeds, another in Canterbury and in Stafford. I should have had two other people here today who have been in provincial prisons and they have experienced Holloway and the Scrubs.—*Mr. Bourke-Haliburton*: And Wormwood Scrubs.

182. *Mr. Justice Edmund Davies*: You may take it all of us have read and are quite familiar with your pamphlet. It was published in 1962. Are we to take it that the view of the Prison Reform Council is that the matters asserted there hold good today, or if you were rewriting the pamphlet would you have any extensions or exclusions to make?—*Mr. Varney*: I think the Council would agree we have no reason at this stage to feel satisfied about any improvements that have come in.—*Mrs. Salhouse*: I understand—I do not know if on good authority, I will tell you later on why we do not know—I do understand from people who have been in Holloway that there have been many improvements there. I cannot establish that—only from a prisoner who has come and told me.—*Mr. Bourke-Haliburton*: If I may say so I do not think the medical side is fully thought out, from my personal experience which dates from since that pamphlet was published.—*Mr. Balk*: I would like to make some observations, arising from what has been said, on two points, firstly the medical and secondly the religious side of prison. First of all on the medical side we have the unqualified person who is diagnosing and who is prescribing and treating prisoners. We also have the semi-qualified man who is

acting as a pharmacist. The diets in most prison hospitals do not differ from the ordinary diets in a prison proper. We have quite a number of men, generally ill, who are put into cellular confinement. Then we have a number of men who are in a psychiatric condition and nothing seems to be done for them. There are other things which I would like to mention. I do not want to take up the time of the Commission. I would like to submit a written memorandum based on both the medical and religious side of prison.

Chairman: That would be acceptable to us.

183. *Professor Radzinowicz:* May I ask a question? Your pamphlet was published in 1962. It obviously contains serious criticism of the prison system. Could you tell us if at any stage you were in a position to put forward your criticism to the Home Office, and if so what reaction did you get?—*Mrs. Salthouse:* All our findings were sent to the Home Office. I am secretary of the Council. I have repeatedly on various issues written to the Home Office and I should say quite fairly that there has been no really satisfactory answer. To begin with there is always a very long delay, and I would say that the Home Office have taken it seriously, but we know it is because they cannot do anything at this stage to change things. I think it is the veil of secrecy over everything which I find as secretary most frustrating. We do not seem to be able to get through to them and get a decisive and clear answer. That is the most baffling thing I as secretary, am up against. I find it particularly when I write on a specific case, a one-prisoner case, which to my mind comprises oversimplicity. I find they can confuse the issue, I do not get a straight answer and it is just delayed and delayed. Perhaps I am over-sensitive: I do not know; so you must excuse me. I am concerned with people and individual people. I know their names. On occasions I visit their parents and homes. I know exactly the circumstances and I try to tell the Home Office just that. I think perhaps it is a personal issue with me. I make it a personal issue but I do expect an answer when I tell them of a case.

184. *Mr. Justice Edmund Davies:* You were the only person who was involved in this pamphlet among those attending today?—Yes, that is true.

185. On page 2, the first printed page, we have a letter signed by Miss Margaret Turner, then secretary, and the reply of the Prison Commission. May we take the reply to be symptomatic of the sort of response you have been getting from the Prison Department?—Yes. I have read it: I should say that is so.

186. *Lady Wootton:* I wonder if I might ask a question about the discussion groups. In the introduction of your pamphlet there is a list of names of persons who attend discussion groups. I think the only one of those named who is present here today is Mrs. Salthouse. Am I right in thinking the other witnesses here were not participants?—I think what has happened is that these people in the list, are active in many other things and are fully sympathetic. They may feel that just a small group of us seem somehow to get by. I think it is a human failing that once a thing is on the way people feel it is going all right, but they are still interested.

187. The witnesses present here today have all been imprisoned, is that correct?—*Mr. Varney:* At some time.

188. But have not necessarily participated in discussion groups, or have you all participated?—We have participated inside the Council but not in relation to the pamphlet.

189. That is the point I want to clear up.—Originally I left it to them to draw up the details of the thing. The next problem was what do we do with it? That is when the Council was re-formed in order to sponsor it. There was no money behind it.

190. I wonder if I might ask a question more on the substance than the form? The greater part of this pamphlet is concerned with the gap between official policy and what really happens. I would like to ask you if you have further criticism to make of official policy itself. Do you think official policy is on the right lines as expressed in the documents? Have you any comments to make?—Yes. We feel that official policy is not yet on the right

lines for reasons of the objectives. There still seems to be a punishment element in the system rather than the real emphasis on rehabilitation and taking into consideration the very important factor of human beings being human beings under most difficult circumstances, whatever those circumstances might be, such as a psychiatric case itself.

191. *Chairman*: Would you care to say anything to us on the place if any that you allot to deterrence, both the deterrent of an individual from committing another offence, and also the deterrent effect on others?—Yes, at our last annual general meeting I tried to follow up the line—what I thought would be in conjunction with discussions we had—which would be a long term view that touches on this question of deterrence. I think as the Council recognises you have got the hard-core criminal who is a genuine threat. He is right in the centre. He must be put in a position where he can do no harm, but around him there seems to be a group of lesser dangers. Around them is yet another group, and so on, and the system does not seem yet to take this into consideration entirely. We know they have been working on maximum and minimum security. So many people are sick people and the deterrent is out of place, yet generally applied policy seems to be towards deterrence and not rehabilitation.

192. *Lady Adrian*: Can I ask a question? Have you any suggestions to make as to who should decide which individuals belong to this hard core, which to the next fringe, which to the outer fringe, and at which stage? That seems to be the crucial ability, to be able to decide who are the real dangers to society and who are possible candidates for rehabilitation.

—*Mr. Balk*: It seems to me that in a proper system that should be in the hands of the medical officer, and also in the hands of the clergyman or priest or whoever is responsible for the man's moral welfare. These things do not happen now and the medical officer examines the man on his reception.

193. Would you seriously maintain those two and those two alone?—No, of course not.

194. Who else?—I would say an experienced prison governor, and prison officer. Quite a number of them could work together with the medical officer.

195. *The Hon. S. Silkin*: Are you saying it should be by the Prison Service rather than the court?—I should say it requires an independent body, having nothing to do with the prison, who come directly under the Ministry of Health. The whole damage is being done because the medical side is controlled by the Prison Commission.

196. An administrative body rather than the court?—I think so.

197. That was not Lady Adrian's point. The point was not who should impose sentence but, the sentence having been imposed, what should be the reception arrangements for deciding how to deal with the person?

198. *Lady Adrian*: It was not at that moment.—*Mr. Varney*: Surely the point resolves itself down to this. We get a hard-core criminal. He has a record. There you have your evidence on which to operate. Although there must be many hard-core criminals with those records there must be degrees of hardness, and so many of these people are nuts. When you get to know them long enough you find, because they will keep getting themselves in this position, that they are mentally unstable somewhere. From that point we begin to think this out. Probably the long view is for the hard core to go to hospital. Between the two points you have grades where there is security, less security, and so on, but from that point you generally try and recover what you can from Armley.

199. *Lady Wootton*: Under the law as it is at present the courts have to decide whether a person is suitable for medical treatment or psychiatric treatment. It is true the Home Secretary can transfer a prisoner to a mental hospital. I should like to get your views as to how far you think it is right for this distinction to be made in the first place, or whether you think the courts ought to confine themselves to saying that the person should be in some kind of safe keeping. Have you thought

at all about that as a possibility?—*Mr. Balk*: What happens when a man who is on trial asks for a medical report, he is at once referred to the prison medical officer, and the medical officer then bases his report on his criminal record if the man has one.

200. That does not quite answer my question. May be you are coming to it.—I am coming to it. The same thing would happen where there is the case of the court saying this man should go to a mental home. It would still be the official there who decided.

201. No. As it is at present the court gets medical information. It has to get two medical opinions, one from a doctor experienced in psychiatric treatment and one from another doctor. On the strength of that it can make a hospital order and the convicted person goes to hospital. Or it can pass a sentence of imprisonment. I am asking you whether you would like to see a system in which the court said there should be custodial treatment and subsequently the Ministry of Health, the Home Office or some independent expert body reviewed from time to time, whether the prisoner in question should be in hospital or in prison, and the choice was completely flexible between the two according to his condition. Perhaps you have not considered this?—*Mr. Varney*: We have discussed this whole problem which in theory is wide, but immediately you allow something to operate inside a prison system it becomes more difficult because you have certain visits inside.

202. *Lady Wootton*: I was not suggesting to you it should be inside the prison system: I was suggesting a tribunal outside altogether.—*Mrs. Salthouse*: I would like to submit that the weight of the evidence of the man's criminal character is so heavy it outweighs any hope if anybody considers him to be mental once he is inside the prison. The shock of a long term sentence does temporarily unbalance him. I feel convinced it is the terrible shock of the years ahead that unhinges his mind. At that stage I do feel they need some sort of psychiatric treatment for a while. I am sure their minds become unbalanced.

203. *Mr. Millard*: Do the witnesses seriously suggest a prison medical officer's report on the mental state of a man's mind is largely governed by his record?—*Mr. Balk*: I am suggesting it from experience.

204. How many medical reports on prisoners have you seen?—I have seen quite a number. I still maintain that when a man is remanded in custody a medical report is asked for. The medical officer makes that report and it is based purely and simply on what is known as the man's antecedents.

205. If you have seen any selection of these reports you must have seen many which are quite contrary to what you are suggesting. You will have seen something like "although this man has been in prison before he would perhaps be better served if placed on probation with some outside psychiatric treatment as a condition of his probation".—I certainly have not seen such a report if they exist. There are quite a number of prisoners in this country. The reports I have seen are all based upon that one factor.

206. *Lady Wootton*: Could we know how you come to see these reports? They are very confidential. Could we know what sort of access you have had to them?—I am afraid I have not had legal access to them.

207. I quite appreciate that. What I am really after is what kind of sample can you have had?—I think I will submit with my memorandum a copy of such a report.

208. I think we would like one—more than one. How many have you seen? Some of us have seen a large number and would be interested to know how large a basis your criticism is made on.—*Mr. Bourke-Haliburton*: I think these reports are often based on very inconclusive evidence. The court sentencing the prisoner does not want to know but is wanting to take the evidence that will put him in prison. The hospital is therefore advised by the members accordingly. I am speaking from my own experience and from the experience of certain other inmates who were definitely needing medical treatment. There is the further point that as far as

mental hospitals are concerned they do not want a certain type of criminal. They do not want him for treatment and are therefore anxious to shake him off or keep him in jail.

209. *Mr. Justice Edmund Davies:* Can you fit that assertion in with an experience of one member of this commission recently trying a man on a charge of assaulting his wife with intent to murder, and wanting the man to go to hospital—a thoroughly decent man to whom something had happened, some great emotional crisis in his life, and not wanting to send the man to prison and getting two medical reports: we are very sorry we cannot say that this man comes within the Mental Health Act and we cannot therefore certify that a hospital order should be made; and the adjudicator on the case adjourned it, giving the defence an opportunity of calling any medical witnesses. After adjournment no evidence was forthcoming. With great respect one has to be very careful.—I do not know whether you are referring to my case obliquely.

210. No not at all; something which happened in the last six weeks.—I am sorry, Mr. Chairman. You see I was jailed on what was afterwards discovered as perjured evidence. I was jailed: I spent five months in jail. It took me five months to get a new trial, at which I was acquitted. The medical evidence furnished at my first trial was entirely false and malicious. I say that with respect to counsel's opinion advising me on this matter, and who advised me to take an action for malice and conspiracy in this matter against medical officers concerned. I have not taken this action because I have been waiting to come before this Commission. I realised that when I started proceedings that would then be *sub judice* and you would not hear my evidence.

211. *Chairman:* You will realise that it is not within our terms of reference to consider an individual case.—In mentioning a case I did not know whether he was referring to my case.

212. *Lady Wootton:* If I might put a more general point, the witnesses come from an organisation composed of those who have all been to prison because of certain

political opinions, which are to put it mildly very unpopular at the moment, and I should have thought it possible that they feel that they encounter certain prejudices. They are a minority group—a very small, minority group fighting a battle for a principle. Some of us have a great deal of sympathy, but you are in this minority situation. I wonder whether you are arguing from the kind of prejudices that you may very well encounter to the experience of criminals if I may say so of a more ordinary type, or whether what you are saying is really based upon the experience of people who are house-breakers, potential murderers and so on.

—*Mrs. Salhouse:* No, ideally treated with great respect, and the officers in charge are most wonderful women.

213. So far as courts were concerned you have criticised the courts and the medical reports and suggested they were biased against the offender. Are you applying that only to a group in your situation or to the criminal population at large?—Our friend here was not a nuclear disarmament.—*Mr. Bourke-Halburton:* In Wormwood Scrubs I have been called on to defend a mental defective because he could not speak for himself. I was a prisoner too: I was in his cell. He was put in my cell so I could look after him—a man still in Wormwood Scrubs. He had assaulted a prison officer in a fit of hysteria because he himself was being assaulted by other prisoners because of the nature of his offence. This man was not political, could not even claim to be political as the rest of us can, the rest of us in jail, because of our political convictions. He was a poor, inarticulate medical case; a man in need of treatment and a man who could not when brought up on a serious charge talk for himself. I spoke for him and put his case and I am very glad to say he was acquitted on this charge. The only occasion I know of on which a man has been acquitted of the charge of assaulting a prison officer.

214. *Dr. Gibbens:* I think there is a widespread understanding of this difficulty of medical treatment. Have you any views—Lady Wootton has partly raised this—on where the division should come between compulsory custody and no compulsory

custody. You have a mental case recognised to be one. The hospitals will not accept him because they say if we do not like people who are thieves or house-breakers, we will not have him in our hospital. They say they can only treat people if they give them a considerable degree of liberty. Therefore the man arrives in prison in default of provision being made in the health services. This is a very difficult question. Do you want more hospitals with many locked doors, just now unpopular, in order to detain people in hospital who are mental cases, or do you want more psychiatric treatment for prisoners? Have you thought where one would make the dividing line, or should not there be one at all.—*Mrs. Salthouse*: As a temporary measure if prisons were generally improved and conditions and surroundings more homely, I think that would be a great step towards this. A man then would not feel so terrible, I think too, if people, not judges but just ordinary people, were allowed to befriend a man and talk to him, it would help. I have received a lot of letters where the man is just lonely: it is as simple as that. He has no friends, no money, and is simply going mental. He just wants somebody: it is as simple as that.

215. *Mr. Millard*: There are prison visitors.—I agree, but how many to cope with this tremendous amount?—*Mr. Bourke-Haliburton*: They have very little influence and chances to see the prisoner.

216. *Chairman*: Could we follow up this question of communications. I think you said in the pamphlet you would like to see an almost limitless expansion of the permission to write letters. Would you visualise that as being limitless in the control of letters both ways, going out and coming in, and what views have you about the necessity for censorship?—*Mrs. Salthouse*: I can speak from experience on this because of the letters I receive. I think lately there has been much more leniency because I find the men write to me about things, although they are censored I really feel the person who censors them should say, what have we got here, the man must be desperate. If they want to censor letters I do not think

it would be too much for them to come tactfully to the man and say: what is it you want? What is it we can do? Do you need a visitor? What can we do? Just tell us the problem. Instead of which I get an incoherent letter which I can hardly understand, and I have to try to make sense of it. The censor has made sense otherwise he would not have allowed it through. I would like to quote from a man's letter. He says:

"... I desperately want help at this stage in my life. I am sincerely innocent of committing the actual offence. I have a shocking record which I am thoroughly ashamed of. I am only appealing against sentence which is all I can do, and I send this plea to you from the bottom of my heart. I cannot explain my feelings... but if only you will come to see me. I am not feeling sorry for myself. I am sick and tired of this life. It is just a wild animal jungle world of lost souls, and I really want the help and guidance to pull out of this life before it is too late. I know there is still hope."

If a censor reads that and he is not moved he is not fit to be in charge of human beings.

217. You did not know what effect it had on the censor?—I am sure the man will write again.

218. Do you see the need for censorship? Do you accept the need for censorship?—*Mr. Varney*: Yes.—*Mr. Balk*: There are many aspects—trying to escape. There must be censorship. I think censorship does not mean anything. Most prison officers are fairly decent people. They understand and will let a letter go through provided it does not interfere with prison discipline.—*Mr. Bourke-Haliburton*: I probably had more letters stopped in prison than I ever had allowed out. My letters were solely concerned with trying to appeal and it was simply because I was referring to matters that concerned prison administration that these letters were censored. If the assistant governor or censor of letters objects to something in a letter he will stop it and make you write another. Another point is that I used to

earn my living as a journalist. A number of my friends were journalists. I was not permitted to get in touch with them because I was a journalist and there was a fear they might make use of the copy I sent them in order to expose quite appalling conditions in one prison. I was not allowed to write to them.—*Mr. Gibson*: Just recently I sent out a letter from open prison. I had also been in closed prison. In this letter I compared the two systems because I had experience of both of them. I wrote the letter to my wife and this letter was not let out: it was held back. I was told I was not to write that sort of letter. If any more letters of that sort came through they would not get out.

219. *Bearing on the regime?*—*Mr. Gibson*: Yes, comparing the conditions in Armley and Thorpe Arch.

220. *Professor Radzinowicz*: Is this what you meant when you referred to the veil of secrecy, that there is secrecy about the prison system? Can you particularise, give other details and tell us what remedies you would suggest. Are you referring to secrecy under the Official Secrets Act?—

Mrs. Salthouse: There is no earthly need for secrets. That goes for prison and everything else. I think the Official Secrets Act is bad because I see no reason for it in respect of prisons. I think it is particularly abominable when it applies to the prison official who sees brutality, but if he reports it he is jeopardised and is not allowed promotion. I think that absolutely abominable.

221. *Chairman*: Would you care to comment on visits, whether they should be less restricted than they are at present?—I think where the prisoner has been violent, he should not be able to attack visitors or have anything concealed. I feel there has been great improvement in that there are open visits. My one regret is that we have been refused permission to visit prisoners. I think that is particularly bad because we have been referred to when we have deputations to the Home Office. I think it is awful we cannot visit them. I do not know if any of you will have the power to change this.

222. *Lady Wootton*: Could we have the precise facts of that? Who is refused permission to visit prisons?—We are.

223. The Prison Reform Council executive or members or whom?—*Mr. Balk*: We are speaking now for the executive.

224. I do not want to take up the time of the Commission.—I have here a television script when the gentleman who spoke said: my policy will be to enable the general public to learn more and more. I want more and more people to see what happens. It was the Home Secretary.

225. Who have they refused? They have not refused you personally. Have they refused the executive?—They have refused the Prison Reform Council.

226. Will you send the refusal to the commission.—Yes.

227. Thank you.—*Mr. Varney*: One of our former executive members is a Quaker. Quite recently he informed us he had been appointed to a prison as Quaker Chaplain and the Home Office checked he had been in prison as a conscientious objector and refused him.

228. *Mr. Justice Edmund Davies*: That is a disqualification on a different point?—A Quaker Chaplain comes and goes and should be quite free to come and go, but if he happens to have been in prison he is out.

229. The basis of exclusion is not membership of the Prison Reform Council but the fact one has been in prison?—*Mrs. Salthouse*: Are we talking about an individual's visits or are we speaking of visiting the prison?

230. *Lady Wootton*: I am speaking of what I understood Mrs Salthouse to say which was, I think, "we are forbidden to visit prisoners". I want to have it perfectly clear—it is a matter which can be followed up—exactly who is forbidden. It is not these five people. It is not everybody who has been in prison, because I know prison visitors who have been in prison. It may be it is members of the Prison Reform Council. It may be the Council, but it is no use trying to follow the thing up unless we have exact facts. Can we have put in as evidence a quotation from the Home Office letter?—Yes.

231. *Professor Morris*: I have two questions you may not be able to answer. Perhaps you can put it in a document.

You must in the past have taken up many individual grievances with Members of Parliament. I should like, and also the Commission, to have information on how this system works. You may not be able to answer this off the cuff, but I should like information on what the procedure is, if you could give us recent examples. That is one question. Then, I am concerned about a number of references to welfare in your document. I am trying to look up references to Holloway having one welfare officer. Your document was published some time ago. I should like to have your views on the present working of the welfare services. Do you have any examples.

Mr. Justice Edmund Davies: Page 8 paragraph 5.

232. *Professor Morris:* Yes—this reference to Holloway. If you would care to put in a document in support I should like to read it. Perhaps you can tell us.—I know there is still only one welfare officer in Holloway.—*Mr. Balk:* My experience is that the welfare services over the last five or six years have progressed tremendously, also in the previous years—a fine body of people. As I shall mention, if I may, in my memorandum, there is still a great deal to be done about that body. Does that help?

233. Yes, it helps but it is a very different statement from the one we had in the document.

234. *Chairman:* I wonder if Mr. Gibson would care to say anything from his experience about whether more use could be made of open prisons?—*Mr. Gibson:* The margin should be much wider than it is because of the attitude of criminals generally against escaping. They want to get the sentence over. The experience I have is of merely one open prison where I found less to do.

235. Did you feel yourself you were not taking a step forward when you transferred from "closed" to "open"?—Yes, I did feel like that. I thought I could do more for myself in Armley than Thorpe Arch though conditions were much better in Thorpe Arch. This is how I felt about it.

There may be reasons for that. Coming back to the welfare officer it seemed to me he acted very much at the discretion of the governor. The welfare officer might suggest something to the governor but it was up to the governor whether he could do it or not. This seems to be the feeling and I do not know whether they are entirely separate from the Commissioners. I think they should be, but they are not.—*Mr. Bourke-Haliburton:* The welfare officer is always very sympathetic but he has no power. His recommendations to my knowledge are always disregarded.

236. *Mr. Millard:* Could we go back for a moment to the regimes in the closed and open prisons? Mr. Gibson said he was able to do more in Armley than in Thorpe Arch. Could you particularise about that? Do you mean more initiative was called for from you in Armley, the discipline was stricter in Thorpe Arch, or what?—*Mr. Gibson:* The discipline in Armley was much more strict, but, from my own personal point of view, there was a very good library in Armley. In Thorpe Arch I did not think much of the library at all. There was nothing there. There was not much in the library. It was exactly the same amongst the other prisoners. I found if you ordered a book, asked for a book, you waited three months or more.

237. Could you give a comparison? Comparing open and closed how would you employ yourself during the day?—In Armley it was the mail bag shop during working hours.

238. Did you work sewing mail bags?—I did not actually sew—waxing threads in the mail bag shop.

239. *Chairman:* How many hours a week?—It amounted to four hours a day—three and a half to four hours.

240. Not more than that?—No, very small.

241. In the rest of the day?—You were locked in your cell.

242. You spent that time reading?—I spent that time reading. In Thorpe Arch you are around a much longer period from, say, eight o'clock in the morning until six o'clock at night. Then you have the evening in a sort of recreation room.

243. How were you engaged there those hours?—Part of that time I was a sweeper in working time. You were not allowed back in to the dormitory; consequently time dragged. The job was very limited. It took one and a half hours or two hours but you tried to make it spread out the whole day. Also in the evening there was a radio which was always switched on to Radio Luxembourg. I went down there to hear the news. It was the same with television—you could see a wrestling match.

Chairman: I think we have got your picture.

244. *Professor Radzinowicz:* I should like to ask whether there is a lot of basic abuse on the part of prison staff? I know this is a very general question: I hope you will be very careful in replying to it, because we want to be fair to everybody concerned. Is your experience too limited? Is there a lot of basic abuse in the sense of beating on the part of prison staff who take advantage or lose their tempers, or would you say: very little to it, or none at all?—*Mr. Varney:* One of the reasons Mr. Gibson is here is that he has had personal experience of prison officers manhandling him. I think you could question him about that and find what he has to say.

245. I am not interested in individual experiences. I should like to know generally if it is being used extensively in your opinion or in occasional instances?—*Mr. Gibson:* Yes. It is very difficult to generalise. One wants to be very careful what one says when one generalises. It struck me in Armley from my own personal experience that one could not say very much out of place without violence being used against you.

246. *Chairman:* What sort of violence would be used against you if you said something out of place?—Well, I received rough handlings.

247. What, just grabbed and pushed into your cell or something like that?—I think you would be grabbed and pushed into your cell and probably given a beating, one or two thumps, or hit or pushed down the stairs, something like that.

248. *Lady Wootton:* What is meant by "something out of place": what sort of remark?—Well, I know some fellows would probably swear at an officer or something like that, or they might say some derogatory remark to an officer. I think that because of the conditions under which the staff have to work it makes them short-tempered, therefore they lash out, or some of them do. But I never saw this sort of thing take place . . .

249. *Chairman:* You did not see anything take place but you experienced it once yourself?—Yes.

250. *Mr. Millard:* Once?—Once, yes. —*Mr. Bourke-Haliburton:* I experienced it once myself.

251. *The Hon. S. Silkin:* What are you speaking from?—*Mr. Gibson:* What other persons told me.

252. Judging by that, what proportion of the prison staff there in your judgement were guilty of this kind of conduct?—That is a very difficult question.

253. I realise that.—I would not like to say.

254. A very small proportion, or half . . . —*Mr. Bourke-Haliburton:* Very few indeed. There was at the Scrubs what was known as the heavy gang, about seven particularly well muscled prison officers who were brought in to beat up prisoners. I was beaten up in rather exceptional circumstances because I did not wish to be transferred from the Scrubs where I was receiving medical treatment to a prison where I knew I would receive no medical treatment. I tried to get a government form of petition in order to prevent myself being transferred from the Scrubs back to Stafford, and they would not give me this form. I was well within my rights in asking for this form. I would not go back to my cell when ordered and so they brought along this heavy gang, as it is generally known, very strong men, and they took me into the cell and beat me up.

255. *Chairman:* Would you say from your experience that the big bulk of the prison officers were trying to do their best sometimes in difficult circumstances, from what Mr. Gibson has said?—I would say

they were. I would say they definitely were but they had very limited knowledge.—*Mr. Balk*: I should say that from that type of civil servant the public get their money's worth.

256. *Mrs. Warburton*: Could I ask Mr. Gibson to pursue a little the conditions under which the staff have to work? We have not really talked very much about the staff. What we are thinking of is the physical conditions and the mental conditions really. Could you expand a little?—*Mr. Gibson*: Well, if you are aware of the physical conditions in Armley, for instance, the staff have to work there. They are in there all day long, they have a longer term than all the prisoners because they are in there constantly, and I cannot imagine that anyone could do the job they have to without getting short-tempered or finding it very difficult to work. Of course this also affects the working conditions because doors have to be locked, and even in getting out the meals you have a long queue of people queueing up and there is a bit of pushing and that sort of thing, and they have got this to control. The atmosphere itself becomes electric. Whereas when you have much more open conditions, with a number of people sitting at separate tables, you have got a much different atmosphere so that the conditions. . . .

257. *Chairman*: Less tense?—Less tense. This is my point, I think, that you get this tenseness which sets off people. I mean officers are swearing at the fellows. . . .

258. Can I ask you a question arising from that? This is quite impersonal, what your view would be apart from your own experience. You have said that you yourself were not enchanted particularly by your experience of an open prison as against a closed prison. But bearing in mind the less tense atmosphere, and the rather more challenging atmosphere because there is more scope to find your own occupation, would you yourself be glad to see a further development of the open type prison?—Yes, I would.

259. Would you think that would be a useful development?—I do. I think that is the way that the answer will come. I am

sure of that.—*Mr. Balk*: Providing, I think, my Lord Chairman, that there is a proper classification of the prisoner.

260. Yes, very important. Is that the kind of thing you would care to see, a classification, particularly in relation to open prisons?—Yes, for the recidivists and the first offender. Of course, that is a rather extraordinary thing. I know men in open prisons who are known as star prisoners who had four or five previous convictions but they have never been in prison before. Do you follow? They have been bound over, put on probation and so on and so forth. It still makes them a first offender, who is not allowed. . . .—*Mr. Bourke-Haliburton*: I think there is a one star prison, Stafford, for first offenders, the conditions there, and not only from my own personal experience but that of others, are the very worst of any English jail. It seems strange that first offenders should be subjected to this treatment.—*Mr. Balk*: There is an open prison in England, at Eastchurch. . . .

261. *Lady Wootton*: Where is that?—Eastchurch in Kent, on the Isle of Sheppey. I should like to see that sort of prison throughout the country for all classes of men.

262. *Chairman*: All?—Except the violent, because at Eastchurch you have an atmosphere which is not prison. If you went into a man's room you would find it very difficult to believe that he was a man who had offended against society. Every amenity; comfortable room with his own furniture and hangers and so on and so forth, and a man can start his rehabilitation at that particular point. There are not sufficient prisons of that kind and I should very much like to see them throughout the country.—*Mrs. Salthouse*: That is for preventive detention.—*Mr. Balk*: Yes, I am sorry.

263. I do not think it is only for preventive detention.—*Mrs. Salthouse* is right to this extent. There are two sections. The lower camp is for the star offenders and the others for the recidivists but they live under slightly different conditions.

264. Which were you talking about?—I was talking particularly about the men in preventive detention.

265. Because Eastchurch is really two different regimes; I mean there is a very definite difference between the two blocks, the two sections?—Yes, in many ways.
266. You have made clear you were talking about the preventive detention block.—I was using that as a pattern for the future English prisons.
267. *Mr. Millard*: May one interpose and ask Mr. Balk in what capacity he was able to inspect the Eastchurch prison?—As a man serving preventive detention.
268. When you yourself. . . .—Was serving.
269. *Chairman*: I do not want to exaggerate the difference between the two sections of the camp, because I believe they are not very great in fact.—*Mrs. Salthouse*: I can speak on this because I visited there quite a lot and there is a difference.
270. But not a lot?—There is a difference.
271. *The Hon. S. Silkin*: I think Mr. Balk was beginning to develop some point about classification in relation to open prisons.—*Mr. Balk*: Yes, of course, some men. . . .
272. *Lady Wootton*: I understood Mrs. Salthouse to say that she had visited Eastchurch quite a lot.—*Mrs. Salthouse*: I visited my friend here—at least, I became a friend of his through the Council.
273. How does this happen when the Council is not allowed to visit prisons?—I was trying to get it clear to which you referred. As a visitor.
274. A personal visitor?—Yes.
275. But you did not know him before?—No.
276. You cannot then originally have gone as a visitor to a particular prisoner because you did not know him?—But I did, because. . . .—*Mr. Balk*: There was a certain amount of correspondence. . . .—*Mrs. Salthouse*: About "Inside Story" for which he wrote.
277. Then it was in the capacity as a member of the Council?—*Mr. Balk*: No, Mrs. Salthouse came to see me purely and simply as a personal visitor.—*Mrs. Salthouse*: I had not met him before.
278. If a similar situation arose now, supposing someone wrote to you out of the prison, just out of the blue, would you be allowed to go and see him?—I have done so.
279. *Lady Adrian*: But you are not allowed to go and see the prison as a whole as a member of the Council.—Yes.
280. *Lady Wootton*: You are allowed to go and see an individual prisoner with whom you have personal contact?—Yes.
281. *The Hon. S. Silkin*: Now can you continue dealing with the classification?
282. *Chairman*: Just before that Mr. Silkin asked Mr. Balk whether he would like to continue on the question of classification.—*Mr. Balk*: Classification: at present men are just sent there. It matters very little what the man is, what his background is, what his crime is.
283. To an open prison?—To an open prison. He may be a man convicted of violence.
284. When you say he is just sent there, he is selected by the prison authorities to go there, is not he? Are you saying he is selected on wrong grounds or what? It cannot be true that he is not sent on some grounds.—What I am saying is simply this, that a man is sentenced to a term of preventive detention and they take a group of men and say "You will go to Parkhurst, and you people will go to Eastchurch", you see; and if a man is at Parkhurst and does not like Parkhurst, he cannot ask to be sent to—they are not vetted.
285. I am sorry, you were speaking about preventive detention?—Yes.
286. I was not clear.—The classification is the same, there is really no classification except they try to make a distinction between the first offender and the recidivists.
287. That is rather a sweeping statement. You want to stick to that, do you?—Yes, I think I do. There is no particular

place for a man who is a homosexual, there is no particular place for a man who has sex offences. You walk round the prison yard with him whether he is in Eastchurch or whether he is in Wormwood Scrubs or Wandsworth, they are there. Whether a man has a low or a high mentality; there are not special men selected for this or that prison, they just put them there.

288. You are speaking from your experience; that is what you consider to be the case?—What I know to be the case.

289. *Lady Adrian*: Can I ask how you know it to be the case?—Because I have met these people. I was there.

290. Yes, but you do not know what process goes on before they are sent there? I mean you are assuming that you know, but do you know?—I do know because I know what happened when I was sent to a certain prison. If I was convicted on one side of the river I went to this particular prison, if on the other I went to another, and it was just a question of a toss of the coin that I went to Eastchurch.

291. *Lady Wootton*: But in the first instance you were sent to your local prison according to where you were convicted?—Exactly.

292. Thereafter if you have a long sentence and you are in your local prison a certain number of prisoners get transferred, some to regional prisons, some to central prisons, some to P.D. if they are sentenced to P.D. Do you know how that selection is made?—As I said, from my own experience, yes, I am simply sent there.

293. You do not know what discussion took place about your case, your character, your...—If it rested on my character heaven knows where they would have sent me.—*Mr. Bourke-Halburton*: I believe there is an absolute bar to sexual offenders and people who have committed crimes of violence being sent to open prisons.

294. Yes, but within the limits of that bar Mr. Balk was rather implying that it was a toss of the coin, I think, and I was just wondering if he did know what selections were made.—*Mr. Balk*: I have seen men

of very violent character arrive at Eastchurch in the open prison, therefore I can only assume that any selection must have been superficial.

295. *Mr. Millard*: Were you not yourself sent before a Selection Board before you went to Eastchurch?—No, I was not. That has been abolished for a long time.

296. *The Hon. S. Silkin*: Were you told at any time why you had been selected for an open prison, or were any of the other people so far as you know...—As far as I know, no. We were told at night "Tomorrow you are going to so and so".

297. *Mr. Justice Edmund Davies*: How was that done? Supposing 30 men are being transferred from one prison to another. Was it as simple as this: "Numbers 1 to 15 will go to prison A, 16 to 30 to prison B", or was each individual told in turn: "You are going to A, you are going to B, you will go to B, you will go to A", and so on?—I should imagine that would be the pattern. Again coming to Eastchurch they received a block of 15 men from a certain prison, two of those men had escaped from a security prison, arrived at Eastchurch and escaped from Eastchurch. If you can tell me what method of selection they had in those prisons I should like to know. And those are facts. I am not dealing in hyperbole at all, I am just stating what I know to be facts.—*Mr. Bourke-Halburton*: I was transferred from Canterbury, where I was sentenced, to Stafford, a prison 200 miles away on the very day that I gave notice of appeal. It therefore became impossible for me to do anything about my appeal. I think there are a lot of prison transfers in order to stop an appeal—I always feel this obstruction to making an appeal is very strong within the prison. I have a lot of evidence on that matter. They always want to stop you appealing if they can, and they will transfer you to the other end of the kingdom in order to do that.

298. *Mr. Millard*: What interest do you suggest they have in stopping appeals?—It is a lot of work for the prison staff. One reason is that you can get letters to write on an appeal that have to be read and this means more work for the prison staff. They also do not like to have people going round protesting their innocence

because this might stir up other people in thinking that they have a case to bring forward on appeal. You are inevitably told that if you go on with your appeal your sentence will be increased, in fact it is automatically increased if your appeal is turned down, you get another six weeks on your sentence. I have said in my note of evidence here which I forwarded to the Commission. . . .

299. *Mr. Justice Edmund Davies:* To this Commission?—Yes, to the Secretary of this Commission. "Attempted intimidation to give up appeal. Unreasonable delay in forwarding appeals. Obstructed from seeing as frequently as needed new solicitor, who anyhow found great difficulty in acting at long range. Impossible to contact former solicitor directly or receive visits from friends who might help with appeal". And then, as I said, I was transferred to another prison, Stafford 200 miles away, as soon as I gave notice of appeal. I had actually served all but two weeks of my sentence before my appeal was heard and allowed, simply through delays and frustrations taking place within the prison. I know another case of a person, a policeman, who was convicted of embezzlement and sentenced to a year: he served ten months of his sentence before appeal. The delay in the process of getting the appeal heard is quite exaggerated.

300. *Chairman:* I wonder if there is anything on the subject of work that you would like to give us the benefit of your experience on?—I should like very much to.

301. That is to say, this is a general principle again, the advantages that you see, if any, in a regime of full productive work as against a regime of relative inactivity, if I may put it that way.—*Mr. Balk:* I think that work in prison is of a useless nature. Men do not earn enough money. They are given pocket money, as you know. I think the ideal system would be if you could get the Trade Unions to agree that men earn their keep in prison and keep their families, and also that they recoup—and this I am very conscious about—they recoup their victims, because no rehabilitation can take place unless the man can make restitution, is given an

opportunity to make restitution, and the prison does not afford that, especially to a long-term prisoner. You see, there is a great deal in our prison system which is really bad, it is bad because it wastes lives, it wastes energy and it wastes public money.

302. Do you consider that productive activity for a 40-hour week or something like that has in itself rehabilitative possibilities about it?—Oh, I am quite sure it will have. I am quite certain of it. I mean after all. . . .

303. Quite apart from the earning of the money?—Yes, because it restores the man his self-respect. It makes him realise that he has got to live with himself and it gives him a sense of other people, whereas this two or three shillings a week that a man earns means nothing.

304. Could I ask whether that is the general view of the witnesses here?—*Mrs. Salthouse:* It is definitely.—*The Other Witnesses:* Yes.

305. *Mr. Millard:* What would Mr. Balk think of the problem which always arises on this question of work in prison as to what should happen to the man who instead of work needs treatment or education or training of some kind which is not profitable industrially? How would you deal with the question of pay to him or his wish to work rather than have the treatment because he otherwise would not get the pay?—*Mr. Balk:* I can only say that you have stumped me first ball, I really have no answer to that.—*Mr. Bourke-Halburton:* You can get paid in a hospital for the work which you do; you do get paid in a hospital.—*Mr. Balk:* As I visualise our prisons of the future you would do away with the remand prison entirely, put each person—there is nothing original about this. I am speaking of a system in Toronto, Canada—every man that comes before a magistrate, any man or woman who offends against the law, is immediately sent to a psychiatric hospital and there he is cared for and reported on until he goes before the judge. Then they decide what to do with him. That is the first step towards his future.

306. *Lady Wootton:* He is so to speak remanded to hospital?—He is remanded

to hospital.—*Mr. Varney*: I do suffer from a certain difficulty here in that it is quite a few years since I was last in prison, but when I left prison I became rather deeply involved with people coming out of prison, that is the old lag type, and a glowing incident was of a man I really cared for over a number of years, a young chap, and he had already done several years before the age of 30 and he had committed every crime there was short of murder. Arson, sexual, he was a thief, he had gone through the book and it was my misfortune to take him along to Friends House. I managed, in order to keep an eye on him, to get him interested in other people, he got too interested and took somebody's cheque book, he finished up before the courts and he wrote to me and said: "Look, I am afraid I am hopeless. I would prefer you to now send me to Broadmoor because I am really fearful for myself". Eventually he made an appeal and I helped him to get this appeal before Lord Chief Justice Goddard, and we got a psychiatrist from Harley Street. . . .

307. *Chairman*: What was the object of the appeal?—The object of the appeal was that they had sent him to prison which meant he would have served the sentence, come out and probably gone back again. He had got to that point. He then went into Brixton for a period where they apparently got a medical report, and it comes right back to the beginning of this afternoon. . . .

308. The appeal that you have mentioned, was that an appeal against the sentence?—An appeal against the sentence, and the grounds of appeal were: "Don't send me to prison just like this, send me to Broadmoor".

309. I see.—And our psychiatrist's report ran exactly counter to the medical officer's report from Brixton. It is to the credit of Lord Goddard and his colleagues that they searched through the McNaghten Rules at the time to find a way of certifying this chap for Broadmoor, and they said "No, we are sorry, it can't be done". Twenty years later I came across that chap still going in and out of prison. Undoubtedly he is mental in some degree yet the psychiatrist's report was—and he read it out to the Court at the time:

"This man has committed almost every crime and I do not guarantee if he goes on that he will not kill somebody", and yet they could not put him away safely.

310. *Mr. Justice Edmund Davies*: I hope the personal nature of this question will be forgiven but it is important for us to get the matter in perspective. We have been, as I say, studying the pamphlet written in 1961 and published in 1962 but we have not been told the latest period of time in which any witnesses who has come so kindly to this Commission was in prison so that we may know about what time period you are speaking.—One left in April this year—another in May.

311. This year?—This year.

312. *Lady Wootton*: So our information is really up to date. That is all we want to know. We do not want to know anything personal.—I appreciate that. That is why I am answering the question.

313. At least two of you can speak from experience in the last few months.—*Mrs. Salthouse*: Yes, and backed by correspondence. . . .

314. We are asking at first hand at the moment.—I do not want you to read it but. . . .

315. *Mr. Varney*, you said it was some years since you were in prison?—*Mr. Varney*: 1943.—*Mrs. Salthouse*: There is something I could say that may be a delicate point.

316. *Chairman*: Yes?—I would like to plead the case of men and their wives, men who are taken into custody, because I do feel that a long term of imprisonment definitely has a disastrous effect on marriage.

317. We would be very interested in anything you would like to tell us.—Particularly on the sexual side, because I have often chatted to women visiting prisoners and they told me quite honestly that there was fear of their marriages breaking up because the strain of being parted from their husbands and not having a bedmate, to put it crudely, was definitely breaking up the marriage. I wonder if anybody can see through this tremendous problem, it definitely is something very important. . . .

318. Accepting the importance of it, and the relevance of it, is there any suggestion or proposal any of you would care to make?—I would like to say that I think I am not sure, that in Sweden, using selected people of course they are allowed to go home, say to begin with once a month. I know, of course that you might think, as we all do. "Well, there is a chance to escape", but I do feel that if a man and a wife knew that, depending on his behaviour and the way he conducted himself on his parole leave, he would be allowed to go home again, that in itself would be an incentive, and it has worked where it has been tried. With all good things there must be a risk involved, must not there? Everything is a risk if we want to see clearly, and I think it is worth the risk and I would like to see an enlightened and a progressive outlook about this if any new system is started. I think it is most important and I think it is one of the things which is overlooked. Food is important, medical treatment is important, but sex is most important, that the man and wife should be able to continue their marriage in that way and be given complete freedom. After all whatever the man has done he may have been tempted to do it for his wife or his children or for himself, I do not know, but when a wife is involved she is going to suffer too, and if that marriage breaks down then the country has got to do something about it. I would like to impress on you, and I am sure I can, to be sympathetic about that.

319. *Mr. Justice Edmund Davies*: Have you found any desire expressed in your correspondence, quite apart from the men going out, that wives would like an opportunity of going to prison in an entirely personal and private way to visit their husbands?—I have not heard from wives, I do not get a lot of correspondence from wives, it is mainly from prisoners, but talking to wives I have not found this, and even so I do not think we always have to talk to people, it is so very obvious that we do not have to get evidence. We all know this thing is important, do not we?

320. *Chairman*: I think Mr. Justice Edmund Davies was asking if you had

considered the thing the other way round instead of the prisoner going home the wife going to prison?—I am sorry, I do see what you mean. I do not think it is satisfactory from my point of view because, there is something unsavoury about that.

321. *Mr. Justice Edmund Davies*: You are saying more visits for selected cases, but even if they were not selected for security reasons at least a halfway house might be a wifely visit to the prison?—Of course, they are allowed now. You mean an intimate visit?

322. Yes.—I think they are allowed and it is done.

323. It is done?—Not here. In France.

324. *Professor Radzinowicz*: You would apply it to marriages, you would not apply to free association of long duration, you would apply it only to marriages?—Yes, it may sound hard but I should say that. To begin with I think it should be for marriages only. I know there are difficulties in cases like this. I think particularly for marriages because so often children are involved.

325. *Lady Wootton*: So they are in *de facto* marriages sometimes. I admit there is a great difficulty and perhaps one should begin with the marriages.—Yes, and I think that the children saying: "Daddy's coming home" helps to keep them together far better than the children having to be told, and the mother having to lie: "Daddy is in hospital".

326. *Chairman*: Would you think it could be approached—there are facilities for one home leave during the last few months; supposing they could be given further periodical home leave?—Yes.

327. *The Hon. S. Silkin*: Would you think it right to give a privilege to a married man which would not be given to people who had no families of their own, or would you give the same sort of privilege to the single people also to equate them?—Are you suggesting single people who have a sweetheart?

328. Or a family but not a wife and children?—No, I still feel that priority should be given to marriages.—*Mr. Balk*: It is important to keep the home fires burning.

That is important.—*Mrs. Salthouse*: And if it worked of course it could be extended.

329. *Lady Wootton*: Do you think there are many people in prison who would be better dealt with in some other way and, if so, in what other way? I mean people who need not be in prison but who are in fact in prison, or do you think on the whole that the persons who get sent to prison are people who really must be sent to prison?—I do not think so in Holloway. I forget the actual percentage of women in Holloway who are there just for default in payments, not for violence.

330. What would you do with them otherwise?—I think I would put them in a training school. Even in Holloway there are facilities there, I wrote to the Governor when I left Holloway that I thought it would be a good idea for the girls to have a comprehensive training in the kitchen there which would fit them for future marriage.

331. This is really substituting a different kind of prison, is not it?—Yes.

332. I am asking really whether you think there are people who are confined, deprived of liberty, who need not be so confined and, if so, if you have any other suggestions how they should be dealt with. Or do you think that the greater part of the prison population consists of people who ought to be confined and deprived of liberty?—I would not like to say.

333. You do not know?—No, I would not commit myself.

334. *Chairman*: I wonder if any other witnesses would like to say something on that?—*Mr. Gibson*: Speaking of prison I would like to see an extension of the parole system for a great majority of prisoners because I think that the system at the moment puts a man in prison but it does not help the victim, shall I say, in any way at all, and I feel that if he was outside there would be some opportunity for him to help his victim.

335. Make restitution?—I think this is a thing which should be brought home as much as anything.

336. *Mr. Justice Edmund Davies*: Yes, but he has been in prison. Lady Wootton's

question really was ought he to have gone.—*Mr. Varney*: There are many people who go in on what you might term impulse charges. Maybe emotionally they are disturbed and they do not quite know why they are in. I think myself the original intention of the Probation of Offenders Act has rather tended to be over-looked. The idea was to keep many out and one hears and reads of cases in the papers today where magistrates appear to be sending people into prison when they could give them just that extra chance. Whether it is because they have not got enough powers to define the terms of their probation I am not clear, but if one deals with people who find themselves in prison for sexual assault, for example, which I think can be impulse, arising from something that is rather deep-seated, magistrates to my judgement over many years appear sometimes to be influenced by the fact that it is an assault by that type of person.

337. *Lady Wootton*: It is a rather serious matter, is not it? Sexual assaults, particularly on the young and defenceless, are very serious offences and one has to think about the public?—Yes, I agree. Originally, you see, I did try and explain a kind of general idea from the hard core prisoner to the hospital

338. Quite.—Between those two points there ought to be not necessarily a prison for such people. I agree with you about protection of the public, we are very clear about that

339. But there are a great many people who go to prison who will never go again; about 80 per cent of the people who go to prison the first time do not go back. Do you know enough of the prisoners you have met and mixed with to be able to say that these people need never have gone in the first place, or do you think that the prison has done its job as a deterrent?—*Mr. Balk*: A little earlier I said that there are so many people who go to prison for the first time who have previous convictions.

340. Yes, certainly.—Whether or not they should be allowed five or six or seventy times seven, I do not know, it is too individual, is not it?

341. I am only trying really to test out the hypothesis which is often put that our prisons are largely filled with people who never need be there, that they are deprived of liberty but are not any great danger and that they should be dealt with in other ways. We are constantly being told this. You have been in prison, you have mixed with prisoners. We should like your impression as to whether this in your experience is true or not?—I have certainly met a number of men who should never have been in prison in the first place.—*Mr. Gibson*: I would support that.

342. Will you take it a step further and say what you would have done

Chairman: Just think if you were a magistrate with unlimited power

Lady Wootton: Or limited power.

Chairman: You are all intelligent witnesses and you would know something had to be done in most of those cases. Thinking back can you imagine what, if you had been magistrates with unlimited power, you would have done in those cases?—*Mr. Varney*: We must first be clear about one point. The State itself is saddled with a very inadequate penal system, that is the problem, and if I were a magistrate I would honestly probably have to back the view of many and consider maybe they ought to go to jail. I would be fair there but I am very worried at the same time that in so doing I would not be doing the right thing by the person concerned because of the inadequacy of the system.—*Mr. Bourke-Haliburton*: May I ask why such repressive treatment is always meted out to people who are either innocent or professing innocence or are there for political offences? These people are always singled out for repressive treatment.

343. We cannot go into the question of innocent people in prison. We start with an assumption that we have to accept the administration of the law as it is, and we assume that everybody who is in prison has been properly convicted.—But the law is not functioning in the sense that it always delays the process of appeal which is every man's right. From the time he is sentenced he should

be entitled to appeal and given every facility for appeal.

344. I think you have made that point and it has been noted about the appeal.—But not only is there delay but he is then treated more oppressively because he is wishing to appeal.

345. We have noted the point.—*Mrs. Salthouse*: Have we thought about how much the magistrate and the judge is educated in so far as prison conditions are concerned? I often wonder if the sentence would be so heavy if he really knew what he was sentencing a man to. I wonder.

346. *The Hon. S. Silkin*: I think Lord Amory's original question when he asked you what you would do as a magistrate was really assuming you were a legislator as well, in other words if you were not tied to the present restrictions on your powers?—He did mention the influences, or was inferring that a magistrate is influenced, and I would like to say he would be influenced to much more leniency if he knew what he was sentencing that man to. He should know what he is sentencing him to before he does.

347. *Mr. Millard*: May we go back to a basic question which was elaborated by Mr. Balk. The man who has committed four or five offences for which he has been fined, bound over, perhaps in the early days sent to approved school, commits another offence minor in itself. What is the magistrate to do in that sort of case other than sending him to prison, even though the magistrate knows that the chances are 6 to 4 that he will never go to prison again?—I agree.

348. That is the simple question.—It is.—*Mr. Bourke-Haliburton*: May I ask a question about the confidential reports that are submitted by the police to magistrates about the alleged character of the accused, which influence the magistrate in his decision? I saw my own confidential report which was just a pack of lies, I was shown it by the Governor of Wormwood Scrubs, he should not have shown it to me but he knew there were a number of lies in it, misstatements. This is surely something

which should be looked into and a magistrate should not be influenced by confidential reports which the prisoner has no chance to reply to.

349. *Lady Wootton*: I have served as a magistrate for nearly 40 years. I have never seen a confidential report. I have seen a great many reports on prisoners which were handed to the prisoner and the contents of which were given only in open court. I have never seen a confidential one.

350. *Mr. Justice Edmund Davies*: The Press being present I do not think it should go forth that that is the position at all. In my experience, which goes over a quarter of a century, I have never had handed to me on the bench a document without my ensuring before I looked at it that the defending advocate or, if he was not defended, the accused personally, had the document before him.—*May* I respectfully say that in my own case this was not so. This document which I saw several months later was never put to me or to my solicitor defending me, and the statements in it undoubtedly influenced the magistrate.

351. *Chairman*: We will note what you say.—I mean mine may be a special case but I think it may occur.—*Mr. Balk* There are two statements I should like to put forward. A few years ago I appeared before a committee on preventive detention, and nothing has been done about the abolition of preventive detention, nor has anyone suggested any substitute for it.

352. *Lady Wootton*: That is not so.—*May* I put it this way. I do not know what the substitute is going to be. Secondly, has any consideration been given to the stamping of the men's insurance cards? When a man leaves prison he gets a blank card and that immediately raises a question with the employer and other departments who have to handle that card: "Where have you been?" I found it very embarrassing.

353. *Chairman*: We note that point. We have had it before. You found the position with a new card an embarrassment?—*My* employer knew, of course, where I came from, I got a job before I

left, I was given parole to get the job. That is all right, but then, you see, it must go to the cashier, it must go to the wages officer, and they ask questions and it is rather embarrassing.—*Mr. Varney*: There are two points I would like to raise before we close. I have always been very worried about the business of slopping out in the cells of older type prisons. I do not know whether any of you have ever attended a slopping out. It is a dreadful experience and it is something I have never forgotten, and I have always felt very sorry for a prison officer who has to be present because it is his job. Where they are building new prisons I would urge that they only build cells with full toilet facilities. There are plenty of examples of that in practice on the continent and elsewhere and it works, and there is no reason why you should be sentenced to live in a lavatory for whatever the length of sentence is where a man has only got a chamber pot. The other point came to my notice recently is in relation to many people who went to prison say as far back as 20 odd years ago. To quote a statement by a Home Secretary of the first world war who had to answer the question whether or not they should take finger prints from C.O.s he said that it should not be done because these people were not guilty of moral turpitude. Only recently I heard that they still retain the files of men and women who have gone to prison on non-moral issues, so to speak. with the result that in the course of life they can slip up, they can go back before authority and they are no longer strictly first appearance prisoners. It seems to me that at least they are not giving anything away in destroying those files after a fairly short period. I think Mr. Gibson himself has had some experience of that.—*Mr. Gibson*: Yes, it is quite true. I was in prison during the war and the records of that were there when I came up again.

354. *Lady Wootton*: Would not Mr. Gibson agree that while the law may be wrong in judging your offence to be a crime, so long as it does, a crime is a crime. Has he any real reason why one type of prisoner should have his record expunged when another type of prisoner does not have his record expunged? May

be you ought never to have been convicted, the law ought not to make your particular act an offence, but it is an offence. I do not quite understand why you feel your past history should be expunged and that of a thief should not.—*Mr. Varney*: I think it is a sound enough point. Many people in the history of this country have felt at times that it is necessary to make a stand on principle, whatever that principle may be. They are not necessarily doing anything wrong, in fact they might at times be of some service. They are just as likely to commit an offence later and I am insisting that they should have the same privilege as anybody else in that the first time they commit a strictly moral offence, they are entitled to a first appearance as a prisoner

.....
355. A great many people take the view that their offence is a moral one.—That is a matter of opinion.

356. *Chairman*: Would you take the point that a Road Traffic Act offence, which is . . .—I should consider that a moral offence.

357. You would consider that that too came in the same category as an offence which might be expunged?—No, I would consider that to be immoral.

358. I am sorry, I thought you said moral.—I did say moral. May be I made a mistake.

359. *Dr. Gibbens*: I wonder if I could follow up a point *Mrs. Salthouse* raised and this is about inability to pay fines. You did raise the point that women particularly are in prison for non-payment of debts, but there appears to be another category, which is quite a large category of women, those not given time to pay. Have you any personal experience of the circumstances under which this occurs, that a person is sent to prison after being fined but not given time to pay?—*Mrs. Salthouse*: No, I am sorry.

360. This is quite a big category of the non debt payers. Some have time to pay and won't pay, but there is a class of prisoner who lands in prison, fined but not given time to pay, and therefore . . .—Yes, I do know what you mean.

361. What sort of person would that be?—I cannot say. I can speak of people

like myself who were convicted but not sentenced, and I do not know the period now but I think it is possible to hold a person in prison for quite a few weeks.

362. *Mr. Justice Edmund Davies*: Convicted but not sentenced?—You are committed to prison but your sentence is not settled until you go back to court again.

363. I see.—Your sentence is not set.—*Mr. Bourke-Halburton*: And it is not counted in your remand.

364. It is now, you know. Your time counts from the moment you go inside.—*Mrs. Salthouse*: Well, I am glad.

365. *Mrs. Warburton*: Mr. Gibson mentioned the opportunity to make restitution. I would like him to explain a little about that. Two of our witnesses have talked about the opportunity to make restitution. To whom and how? Society or the individual?—*Mr. Gibson*: Mainly to their victims.

366. This would only be between individuals?—It would have to be, I think, because the money is concerned with the individual and therefore I think it is the individual who must make the effort. At the moment society is taking the effort away from him.

367. *Lady Wootton*: Could we take that one step further? It has been suggested to us that supposing a person steals a considerable sum of money, let us say £1,000, and he coughs it up, says where it is and gives it back, that should be grounds for reducing his sentence. What would your reaction be to that?—I think that would be quite legitimate, yes. I would agree with that.

368. If the train robbers had said where the hoards were, you would take the view that that would be grounds for mitigation of the sentence?—*Mr. Varney*: There are many lesser crimes have got longer sentences.

369. Yes, I did not ask that. I am concentrating simply on this question. Here is a very large sum of money and nobody knows where it is. Supposing they had returned the money, would you or would you not think that that was grounds for dealing with them more leniently, or is that buying yourself back?—No, I do

not think so. I think my personal opinion would be that this would count as some mitigation towards their sentence.—*Mr. Balk*: It seems to me very much like the courts becoming collecting agencies.

370. *Mrs. Warburton*: Could I press you more on this? Compulsory restitution or voluntary restitution between somebody and their victims?—*Mr. Gibson*: We have at the moment a probation service and I feel this would be the sort of job which the probation service could take on. And voluntary restitution if possible. There will be cases I know, knowing some of the criminals, having been amongst them, where compulsion would probably be necessary but at the same time I think it would be a much better system than putting everybody in prison willy-nilly.—*Mr. Bourke-Hallburton*: In a case in Ireland the Judge suspended sentence, there was a question of three-quarters of a million involved and it was in Switzerland; if the accused would make restitution—he refused to make restitution, he preferred to do his time and take his 14 years. It brings up the whole problem of a lot of professional criminals. There are actually people who think that they are earning their time, and there is no way around that, it is well worth their while, the time they spend in prison, because they make so much money afterwards.

371. *Chairman*: Well, you have given us two hours or rather more, I think of your

time and we are very grateful to you. You have been able to speak to us from your first-hand experience. It is quite clear to us that you have all thought a great deal about these subjects and look rather wider than your own individual cases. We are grateful to you, thank you very much.—*Mrs. Salthouse*: I should like to reciprocate that.—*Mr. Balk*: May I make an appeal on my own behalf. The gentlemen of the Press are here and if they can keep my individuality out I shall be grateful to them. I know that you cannot . . .

372. All I can say is that it is a public session and you agreed to come here under those conditions, and in fact you have told me you have no objection to your evidence being published.—No, not at all.—*Mrs. Salthouse*: And I am Mrs. Salthouse, too, not Miss.

373. I am sorry.—It does not matter.

374. *Mr. Justice Edmund Davies*: It appears on the pamphlet but you have been described here as "Miss".—*Mr. Varney*: On behalf of the Council I want to thank you for your very courteous hearing and express the hope that at least we will have made some small contribution to the job in hand.

Chairman: Thank you.

(*The proceedings were terminated*)

MINUTES OF EVIDENCE
TAKEN BEFORE THE
Royal Commission on the Penal System
in England and Wales

Witnesses: Mr. B.
Mr. R.
Mr. S.
Mr. P.
Mr. G.
Mr. M. } of the Recidivists Anonymous Fellowship.

Note: To preserve their anonymity witnesses are identified only by initials.

Wednesday, 16th June 1965

Present:

The Rt. Hon. VISCOUNT AMORY, G.C.M.G. (*Chairman*)

The LADY ADRIAN, D.B.E.

DAVID BASNETT, Esq.

The Hon. Mr. JUSTICE EDMUND DAVIES

The Rt. REVEREND THE BISHOP OF EXETER

Dr. T. C. N. GIBBENS, M.B.E.

T. L. IREMONGER, Esq., M.P.

R. E. MILLARD, Esq.

Professor J. N. MORRIS

The Hon. S. C. SILKIN, Q.C., M.P.

Mrs. ELIOT WARBURTON, O.B.E.

The Rt. Hon. LORD WHEATLEY

The BARONESS WOOTTON OF ABINGER

A. ALEXANDER, Esq., O.B.E. (*Northern
Ireland Observer*)

A. J. E. BRENNAN, Esq. (*Secretary*)

**Memorandum submitted by the Recidivists Anonymous
Fellowship**

Preface

This written evidence has been compiled by members of the Recidivists Anonymous Fellowship in H and K Wings, H.M. Prison, Wandsworth.

The views and recommendations contained herein are solely those of serving prisoners who share the public's concern about penal problems. Likewise, this document has been produced by these inmates without any outside assistance.

The Committee and Members of the "Outside" Group of the Recidivists Anonymous Fellowship having considered this Evidence wish to endorse the views contained therein.

Acknowledgements

We would like to express our appreciation to the Chairman and Members of the Royal Commission for affording us this opportunity to submit our views and recommendations.

Our thanks are also due to those prison authorities who have made available the facilities without which our task would have been impossible.

Introduction

None of the great reforms of the past century could have been achieved had our legislators and reformers waited for public opinion to support their beliefs. It has frequently been suggested that a campaign to educate the public in the subject under review would serve a useful purpose. Whilst this is noble in concept we feel that it is not feasible in practice and it is the duty therefore of those who do understand the nature of the problem to devise constructive schemes and press for their adoption. The general public, when considering crime and penal matters, tends only to think in terms of headline catching murders, the rape of children or the more audacious armed robbery. This is, of course, but a tiny fraction of the whole. The vast majority of the crimes that annually swell the statistics are dull, unspectacular affairs committed by ordinary unspectacular people. The former is inclined to rouse strong feelings of emotion which only serve to inhibit a rational approach to the latter. Emotion, in this context, is no substitute for reason.

We are convinced that the existing penal system, reached only through a hotch-potch of expediencies, is incapable of providing a solution to the rising tide of crime and its attendant problems. The recommendations made herein are not offered as a blueprint with a 100 per cent guarantee of success. We believe however that they represent the framework within which can be constructed the only rational alternative.

The light of modern knowledge of crime and its causes is but a feeble beacon. It has failed to illuminate, even faintly, the basic causes of delinquency and without this knowledge progress must be limited and any action taken largely experimental. However it has become apparent that many previously held beliefs and theories have been based on fallacious premises. The widely held view of the criminal as a greedy or slothful individual has little foundation. It must be remembered that we are dealing with individuals and no criminal class or type exists. The prison population in this country is a representative cross section of the British people as a whole and their only common factor is that each one has been detected in a breach of the law. It is worth stressing here that this single common factor is not a particularly strong bond. The prisoner's emotions, thoughts and interests are identical to those of the rest of the population and the image of the "criminal" as a type presented by the popular Press is wholly at variance with the facts.

Whilst we admire, indeed support, the independence of the judiciary it must be realised that through such independence the concepts and purposes underlying the punishment and treatment of offenders vary from court to court, and there is little evidence of a common policy. A re-examination of the resultant diverse policies would be a mammoth task.

The obvious and fundamental question that must be decided is: "Should the treatment of offenders be punitive or reformatory?" It should be born in mind that any reformatory measure imposed by compulsion must, in itself, be punitive as it deprives the subject of some measure of his freedom. Even a superficial examination of past penal practices shows that any system based purely on punishment has totally failed in its objects. Obviously therefore the time has come when a genuinely constructive policy of reform must be adopted, or at least attempted. Statements of good intent are no substitute for positive action in this field and once a policy is decided upon positive measure must be taken to implement it.

The existing penalties and treatments available to the courts in dealing with offenders were originally based upon a largely punitive ideal. It is unlikely therefore that these, in themselves and in their present form, can constitute a suitable foundation upon which to build a reformatory penal system. We shall now attempt to analyse the potential reformatory content of the existing facilities and see how far each might be adapted for use in the furtherance of a policy of reform.

Bind over: This is in effect a suspended fine and therefore basically a psychological implement. A fine is something "paid and forgotten" whereas the recipient of a Bind Over has the ever present reminder before him of the consequences attendant upon a further offence. We feel that rather better use could be made of the Bind Over if the court emphasised the anti-social nature of the behaviour involved rather than minimise the matter by casually dismissing the case with a gruff "Bound Over in the sum of ten pounds, next case please".

Fine: As already stated above a fine once paid is forgotten and it is likely that the threat is more effective than the act. Other than as a result of a breach of a Bind Over a Fine is rarely a suitable method of dealing with a criminal offence. We cannot recommend any extension of this procedure unless some element of restitution or compensation can be incorporated.

Conditional Discharge: This has shown itself to be a useful method of dealing with the first offender who is personally capable of managing his own affairs and where the offence is of a comparatively minor nature. To widen the range of offenders who might be dealt with in this way it would be advantageous to incorporate some of the features of the probation system, such as regular and frequent reporting. Should the probation officer concerned feel that the offender's best interests would be served by a regular probation order he should be permitted to bring the offender before the court again to enable such an order to be made.

Probation: Of the remedies open to the courts, particularly where there is evidence that the offender is not wholly capable of managing his own affairs, probation is certainly the most reformatory in concept, potentially the most effective and the one which offers the greatest hope of success. It is also, unfortunately, the remedy which has been allowed, in most areas, to degenerate into a farce. There are insufficient Probation Officers, all of whom are grossly overworked. Consequently no more than lip service is paid to the conditions of such an order. If we are to expect success in this most promising area it is essential that the Probation Service be urgently and substantially expanded. It would also be realistic to arrange for a limited case load if the Probation Officer is to be expected to discharge his responsibilities effectively.

Given the proposed expansion of the service the authority of the officer should be far more comprehensive. We envisage the most sweeping powers to inquire into, and if necessary direct, all aspects of the probationer's life. Above all the officer should be empowered to ascertain from the probationer's employer whether, in fact, he is attending work regularly and discharging his duties in a satisfactory manner. Frequent and unannounced visits to the probationer's home are an essential and only in exceptional circumstances should contact be less often than once per week; indeed we would, not regard daily contact, where necessary, as excessive.

Although we have stressed the need for dictatorial powers we cannot over emphasise that the Probation Officer's duty is to assist the probationer to overcome his inadequacy and eventually stand on his own feet. Unless the probationer can be induced to regard the officer as his friend the object of the probation order will not be achieved.

We feel that the conditions of a probation order might well impose such restrictions and directions, short of actual imprisonment, as may be deemed necessary in any particular case.

Where a breach of probation occurs many courts regard the matter as a personal affront and react accordingly. The circumstances of any breach should be carefully examined to ascertain the cause of the breakdown and any remedy imposed should not be of a vindictive nature.

Imprisonment: This particular remedy comes in several guises. Sometimes it is called corrective training, sometimes detention and so on; however the difference is in name only. Invariably the courts, and undoubtedly the public, are under the misapprehension

that corrective training means what the words imply. In fact the only difference between corrective training and ordinary imprisonment is that the former enhances the inmate's chances of obtaining a single cell! The return (or failure) rate varies from 80 per cent in "recidivist" prisons to a more hopeful 40 per cent in "star" prisons. Whilst the latter figure cannot be regarded with any degree of complacency, the former must be seen as an appalling indictment of imprisonment in any of its present forms. Unlike probation, imprisonment, regardless of its title, is totally negative both in concept and execution. Perhaps the key to this lies in the word "concept". Number one of the prison rules (as revised in 1964) states: "The purpose of the training and treatment of convicted persons shall be to encourage and assist them to lead a good and useful life". Within the framework of the existing prison system these words can have no realistic application in practice. There is little need to stress the unsuitability of most prison buildings for any purpose other than straightforward incarceration. However a more alarming difficulty in the implementation of Rule No. 1 is the uncompromising prejudice displayed by a majority of the staff. Although some officers wish to become more than mere turnkeys their accomplishments are limited by the freely expressed scorn and derision of their colleagues. Between these two schools of thought there exists another group—those who render lip service to the principle of reform. This lip service often is so transparent to the inmate that the latter's scepticism of all reformers is perhaps understandable. Until such time as these disruptive elements are re-trained or replaced little progress can be expected.

We regard the following as legitimate criticisms of the existing prison system:

- (i) The over-centralised administrative machine with the inevitable plethora of red tape which prevents those with first hand knowledge from taking any but the most trivial decisions.
- (ii) The institutional regime which absolves the inmate of all responsibility.
- (iii) The total divorce from the realities of life outside prison.
- (iv) The complete loss of dignity of the inmate and all that this implies.
- (v) The adoption of a "We—They" complex on the part of the inmate.
- (vi) An actual physical and mental deterioration.

The above mentioned points are so interlaced in themselves that the joint effects created form one great problem rather than a series of lesser ones. The mental and physical deterioration is very largely the product of the other five influences. Whilst it would be very desirable, and mechanically a simple operation, to introduce conditions less conducive to physical deterioration, the creation of an environment in which the mind will not suffer is a task for which half measures will not suffice. Likewise physical conditions are more readily and speedily treated than those of the mind. Thus it may be seen that within the context of reform the accent must lie upon the mind of the inmate. Before dealing with the crux of the problem it should perhaps be stressed that any and all situations and conditions which degrade should be eliminated. It must be realised that no person, institution or system can impose reform on any individual. However an environment may be created in which the inmate's curiosity is aroused thus leading him to observe and understand the basic nature of the society in which he lives. In this way he will have the opportunity to appreciate the unsatisfactory quality of his former life and achieve a genuine desire for one more satisfying himself and the community.

Having observed the inadequacy and unsuitability of the existing prison system let us consider how a more useful tool can be made available to the courts in dealing with offenders who are unlikely to benefit from the lesser remedies already mentioned.

The Variable Sentence: When it is necessary to confine a person for training or treatment it is essential that the confinement ceases at a point when it may be reasonably supposed that the individual will have benefited to the full. From our own observation we have seen that, even under the existing unsatisfactory system, this point is, in fact,

frequently reached but the inflexible nature of current sentences precludes such a course. The subsequent deterioration is both rapid and very evident. All sentences therefore must be variable. The courts responsibility should go no further than to state the maximum period during which an offender may be detained; in order that this be realistic from the point of view of reform the opinion of the prison authorities should be sought. When considering the release of an inmate the opinions of any but those on the prison staff who have direct and regular contact with him can have little value. Whilst clergymen, magistrates and Home Office Officials all have a good and useful function it is unlikely that their advice could be of any value in this context.

Before any sentence, particularly one involving the liberty of the offender is decided upon the court must be fully informed of all the available facts. Too often at present the sentence is determined by some incomprehensible equation involving the seriousness of the crime and the offender's previous record. Some of the more spectacular results of this, such as eight years preventive detention for the theft of food to the value of 1s. 8d., or three years corrective training for buggery with a consenting wife, have only served to make a laughing stock of our judicial processes. Whilst the concept of the punishment fitting the crime may be acceptable in a nineteenth century operetta we feel that in this age of social progress a wider view should be taken. Any treatment or remedy must be based on the understanding that the offender will eventually be expected to take a useful place in the community and, consequently, any judgement based upon an unsound premise is unlikely to further this end. It should be the court's responsibility to ascertain the individual's circumstances and situation not only at the time of the event but also during the months, or if necessary years, leading up to it. The superficial background information usually provided by the police is insufficient for this purpose.

Progressive Stages of the Variable Sentence: The seven day drukk, the vagrant, the beggar, etc., who form about a seventh of the existing prison intake should be channelled elsewhere. These people represent a completely different social problem and we shall deal with them separately at a later stage.

We regard the following as a framework within which a reformatory programme might be attempted with some expectation of success. As will be seen this envisages a high degree of decentralisation in which individual prisons or small groups of prisons will virtually form autonomous units. It cannot be over-emphasised that at all stages the inmate must be looked upon as an individual and not as a number.

Stage 1. In this reception or allocation stage men will be detained, under full security conditions, for as short a period as is feasible. We envisage an average of two-three weeks although psychopaths and others of difficult disposition may be required to remain longer. The primary aim here is to enable the men to be segregated—not on the basis of their offences but on their reformatory probability within the limitation of their sentences. To do this successfully it will be necessary for the inmate to be interviewed at depth by staff members who have had some social training and who have shown an aptitude for assessing the individual's reformatory potential. Rank or years of service should not necessarily be regarded as qualifications for this type of work; indeed from our experience the reverse would seem to apply more often. As the recurrent theme in the subsequent stages will be social education it is unlikely that the violent psychopath and others seriously disturbed will be easily fitted into the reformatory programme envisaged. It will be necessary therefore for these to be segregated into a separate security prison where some limited form of Stage 2 will provide the opportunity for those capable of reacting favourably to return to the main stream. Our association with such men does not lead us to place very much hope of success with this category and their segregation will ensure that they do not impede the progress of others.

Stage 2. Before describing the reformatory processes utilised in Stage 2 it might be wise to clarify what is meant by inadequacy and social education.

The vast majority of our prison population might be reasonably described as being inadequate to some degree; of these probably half are seriously inadequate. This

inadequacy may not be apparent whilst they are in prison, for in this inadequate society they are, in fact, adequate. However under the normal stress conditions that prevail beyond the prison walls their inadequacy becomes obvious and their frequent breakdowns understandable.

This inadequacy is consequent upon an almost total ignorance of the true nature of society; a cynical attitude towards the accepted rules governing social behaviour; a misguided belief that these have been imposed by an authoritarian "they" and a failure to recognise the ethical values of these rules.

Many have a genuine inability to rationally comprehend the probable consequence of their actions beyond the first or second remove. This does not imply that the inadequate, when committing a crime, does not recognise that he is doing wrong and will be imprisoned if apprehended. Indeed he is acutely conscious of the consequences of his being detected and usually takes considerable precautions to avoid this. However, at this stage, he sees the crime as the only possible method of solving his current difficulty and closes his mind to the hazards beyond his immediate control. This difficulty, or problem, is often the product of his mishandling of his ordinary day to day affairs and his inability to see the consequences thereof.

It may be significant, too, that many inmates have difficulty in developing deep and lasting relationships with members of either sex. Fewer than 40 per cent have wives, or *de facto* wives, with whom they lead a normal family life. Whilst in some cases this may be due to recurrent prison sentences, more frequently the converse is true.

The antidote for social inadequacy is social education. This will necessitate the creation of an environment in which the mind may become activated and stimulated to combat the deadening effect of confinement. Men must be encouraged and assisted to examine how they themselves are motivated and how society as a whole functions. By questioning and discussing the rules governing social behaviour and the ethical foundation thereof men will have the opportunity to appreciate their worth and in consequence will acquire a new set of values.

This cannot be taught in the normal academic way. The initiative must come from the men themselves; likewise they must be encouraged to seek the answers themselves. This can best be achieved by programmed group discussion in which any experienced staff member participating must look upon himself as a guide rather than a teacher. We have found Mr. Richard Hauser's "Group Study Hand Book" to be most useful in such group work where it is essential that some tool be available for channelling the discussions through a series of logical stages.

Although the study of the problems peculiar to the inmate is a useful group practice, no less useful, and possibly more rewarding, is the investigation of the difficulties faced by others. A brief look at the lives of persecuted religious and racial minorities, those suffering from mental and physical disorders and the hundred and one dilemmas that beset mankind will bring it home to the inmate that problems and difficulties are the lot of all.

Stage 2 should be served in a closed industrialised prison where men can engage in useful and remunerative work. Inmates should be obliged to contribute substantially to the support of any dependants they may have and, in addition, should be required to make some financial provision for their eventual release. The opportunity to engage in satisfying work will erase one of the more undignified aspects of the existing system. It must be made clear, however, that the work aspect of imprisonment at this stage must be secondary to the programme of social education, and the demands of the latter must have absolute priority. Where necessary academic education should also be available and men should be encouraged to avail themselves of this.

Whilst we recognise that the existing prison buildings will have to be used for a considerable time some of the more obvious defects can be minimised by judicious alteration. The herding together of a hundred men on one landing, or several hundred

in a wing, must be avoided. Partitioning into units containing not more than fifty men is essential if these ideas are to be effectively applied.

Institutionalisation is something which must be attacked at all levels regardless of the fears and anxieties this will raise in the minds of many inmates and staff members. Whilst all reasonable measures should be adopted for the preservation of good order and administration, such matters as the alignment of cell furniture and utensils must not be regarded as of paramount importance. Neither can an unfastened button be reasonably related to the ethical rules governing the conduct of society. At present the rules concerning cell furniture and the fastening of buttons have a high priority with many members of the staff and it is not surprising therefore that whatever small efforts have been made along the lines we advocate, little real progress has been achieved.

Stage 3. The inmate will graduate into Stage 3, not after some arbitrary period of time, but when he is adjudged to have benefited fully from the social education programme in Stage 2. Whilst no method of assessing such progress can be infallible it should be remembered that the men are subjected to the critical scrutiny of their peers and "frauds" in group work are easily detected. Often the potential "fraud" in his attempt to delude others deludes only himself.

Stage 3 will be served in an open industrialised prison. Rather greater emphasis should be placed here upon work and the conditions, hours and expected product should not be less than those pertaining in industry generally. Evenings and weekends should be devoted to continued group work incorporating, where possible, suitable elements from local community organisations. Active participation in social work, similar to that carried out by the International Voluntary Service, should also be an integral part of the Stage 3 programme.

The restrictions placed upon contact with, and visits from, families should at this stage be greatly relaxed. Indeed it would further the ends of our programme if men were permitted an occasional weekend at home to assist those who are married to pick up the threads of family life again.

Stage 4. This is the hostel stage. It is not necessary for their location to be tied to that of prisons geographically. Hostels should be semi-autonomous units grouped, in most instances, within the major industrial conurbations. We envisage, for example, in the Sheffield area four or five hostels, each with its own establishment and all being the responsibility of a single Governor.

The staffing of these establishments will require a great deal of care to ensure that only the most enlightened should be selected. As an alternative it might be worth considering whether the Probation and After-Care Service could usefully undertake this additional responsibility.

Graduation from Stage 3 to the hostel will, as before, be determined upon progress. The individual should be allowed wide freedom of choice as to the location of the hostel to which he will be allocated. One limiting factor here will be the availability of work. However, the overriding consideration must be to resettle the man in an area and, where possible, in employment from which he will not wish to move.

Group and social work as outlined in Stage 3 should be continued but a greater freedom of choice should be permitted at this stage. Within the hostel staff and inmate must achieve a high degree of mutual trust and respect; likewise both must endeavour to gain the confidence, and thus become a useful and accepted part, of the local community.

Stage 5. At this stage the man will leave the hostel and reside at his own home or in accommodation which he will have previously arranged for himself. The conditions of his release from the hostel will be identical to those of a probation order, with the exception that he will be responsible to the authority of the hostel from which he has graduated. Men will be expected, not compelled, at this stage to continue with their group and social work.

Release from Stage 5, and thus from the sentence, would be consequent upon application to an appropriate prison authority. This will be decided upon solely in the light of the individual's response to the programme of social education now completed. Otherwise the conditions of Stage 5 will continue until the expiry date of his sentence.

Punishment and Breakdown: The existing sanctions, i.e. loss of remission, bread and water, solitary confinement, etc. will have no useful purpose in the programme outlined. Minor breaches of discipline or lack of effort in the field of social education can be dealt with by the imposition of fines as men will be in receipt of reasonable earnings from Stage 2 onwards. More serious breaches, personal social breakdowns, etc. might necessitate the individual concerned being put back to a previous stage. This should not be lightly imposed and in no case should a person who has shown some earlier promise be written off as a total failure.

Seven-day Drunks, Beggars, Vagrants, etc.: These people are more to be pitied than censured. For the most part they consist of elderly citizens who have never found a useful place for themselves in society. The present system of imposing frequent short sentences of imprisonment is ludicrous on several counts:

- (1) They are sentenced for what they are rather than for what they do.
- (2) The sentence is usually served under maximum security conditions wholly unnecessary for this type of person.
- (3) Such sentences, while imposing considerable punishment, cannot be looked upon as having any deterrent value. Three meals and a bed is, in fact, what these people require but our method of providing these amenities is absurd. We have not had the opportunity to engage in extensive research on this aspect of the penal system and we are reluctant therefore to make detailed recommendation. However it seems obvious, if these people must be detained in any way, this should be in an establishment where security is a secondary consideration. They might well be provided with some kind of labour within such establishments, where a pretence of earning their keep would greatly assist in the restoration of some part of their personal dignity.

EXAMINATION OF WITNESSES

375. *Chairman:* May I first of all thank you for coming along and offering to help us by giving oral evidence in supplementation of the interesting paper which you submitted. We received your evidence under cover of a letter from Mr. Whitney of 16th February, and I will come back to that, if I may, in a moment.

We arranged this session not as one of our usual public sessions, because we were not quite sure what you wished to say to us, and we thought it would be best in view of that to have this evidence received in private. But we have understood from your Association that you have no objection to your written evidence being published, which is our normal practice, and I would like to get your confirmation that that is so so far as the written evidence is concerned?—*Mr. R.:* That is quite right.

376. There are no names mentioned in it. But when we come to the oral evidence you are going to give us today, we would like to know whether you would like the evidence to be published or whether you would not. If it were published it could be published without your individual names appearing, by anonymous question and answer. I do not know whether you have thought about it.—We should have no objection to the oral evidence being published also. I think we might have to have a word together concerning the question of names, because we have not consulted on this point, and someone may have very strong feelings.—*Mr. B.:* I would have no objection.—*Mr. S.:* I would have no objection.—*Mr. G.:* I think possibly the best way to get it done would be if you did it by initials, Mr. A., B., C., and

so on: other than that we would have no objection. The actual initials would not serve to identify anyone.—*Mr. P.*: I would certainly agree to that.

377. *Chairman*: Our task as a Royal Commission is a long-term and general one. We have got to consider principles and their application. What we cannot go into is individual cases of alleged hardship. It is not our task to go into individual cases, but it is in order for you, if you wish to do so, to quote individual cases as an illustration of a general principle. I would like to ask you, if you want to help us as much as you can, to relate your individual experiences and anything you want to say on those to general principles and their application; and if you can give us advice again stemming from your own experience that you think would be useful to us in the application of general principles, again it will be very helpful, on a matter like deterrence, for instance, if you can give us your frank opinion as to what is or is not likely to discourage other people, that will naturally be a thing we are concerned about in the interests of society.

Then we are spending quite a time going round visiting individual establishments. If you care to tell us of your own experiences in a particular establishment, or if any of you would care to tell us which establishments you have been in, again it would help us. If you would like to ask us any questions before we start on procedure or anything else, please do so.—I do not think so.

378. Then may I refer to Mr. Whitney's covering letter, when he told us about the setting up of the Fellowship; we would like to ask an initial question about your association. He said, "At the present time there are two active groups, one in Wandsworth and the second in Chelmsford prison, with membership totalling approximately 100 in each case". Then he went on to say that the Fellowship acquired last year a house in Acton. We would like to ask you whether that is still the picture, or if there have been any developments either way, whether you have still got those two groups, whether the membership of each is still about 100, whether you have still got your house in

Acton or whether you have any other developments in mind.—*Mr. R.*: I can speak with authority for the outside group in saying that the house in Acton is a going concern at the moment. It is housing men recently released from prison, where they are given shelter and other forms of assistance both bodily and mental. We feel it has been so successful that we are thinking in terms of another and larger one, and I think that will be accomplished within a very short time, because we are taking steps at this moment to acquire another house.

379. In another area?—No, we are trying to get one in the same general area. This is a matter of convenience, because if it were completely separate there would be the problem of staff. We have a very small staff in the house at Acton, there is one woman who exercises a sort of super-mother role, cum teacher, cum keeper, and she does the job very well, and we hope she might be able to extend her role to supervising both houses. We have confidence in this woman. She is not the ordinary do-gooder in the sense that she thinks these people need help, she identifies the inmate coming from prison as simply another human being, not a person who has been in prison or in trouble, but a person who is a human being, who is slightly in need of some assistance at the moment. She looks upon it rather as helping a blind person across the road.

380. Could you tell us whether any of you occupy official positions in your associations?—*Mr. G.*: Yes, I am chairman of the "inside" group. We have two groups.—*Mr. B.*: I am the secretary.—*Mr. G.*: The two colleagues on the left are both on the board, which is constituted of myself plus five other men, and we are on that board. *Mr. R.* was a former chairman, but he is now of course an associate member of the "outside" group.

381. He is an associate member? You have not got an official member of the "outside" group?—Yes, I probably misled you. He is an official member, but I do not think he held any office.—*Mr. R.*: I am on the committee of the Fellowship Trust outside, and in that

respect perhaps best qualified to represent the views of the "outside" group.

382. *Lady Wootton*: Is there a strong "outside" group? I think we have been told there are 100 in each of the two establishments, but what sort of membership is there in the "outside" group?—We hold meetings every fortnight, and they are attended by approximately 20 to 30 people, sometimes a lot more, of whom slightly more than half would be former inmates. So shall we say there are 10 or 15 inmates who appear every fortnight, but they are not the same 10 or 15 every fortnight. I think we could say we have outside something of the order of 30 men whom we can depend on as being active within the Fellowship. We have other people who associate with us rather more vaguely than attending meetings, we know where they are and they will do something if they are asked, but they do not attend meetings with great regularity. We have social functions at which they sometimes appear, and that is why we have social functions, so that we can bring the whole of them together.

383. *Lady Adrian*: Is it your opinion that there is a definite advantage in such a house as the Acton house being run by the ex-prisoners themselves rather than by an official body?—I think it is very very important. If the men do something themselves for themselves it is much more effective and of far more value. The shelter provided by a government department or a charitable institution or church smacks of charity or continued discipline; but if it is run by the men themselves they do not resent someone coming forward and saying "Will you get to hell out of here and go to work!" We can say things like that to ourselves, but you cannot say it to us without our resenting it.—*Mr. G.*: Usually they have had so much to do with official welfare authorities and do-gooders, that you may appreciate they are only too thankful to get rid of it and do something for themselves to show that they have not got to be led by the hand.

384. *Mr. Millard*: Does your criticism of outside bodies running charities include for example, Norman House. Have any of you had experience of

Norman House?—*Mr. B.*: A little.—*Mr. R.*: We have heard quite a bit on the social study group we are running as to their endeavours. There have never been any complaints from the inside members; but there again you usually find the people who want to go to that sort of establishment would be suffering from some sort of inadequacy, obviously suffering from it. Normally the type we try to pull in would be chaps we think can help themselves with a little bit of help from their own kind.

385. *Chairman*: I have a question with regard to your house at Acton. How is it designated, and do the local people know exactly what you are doing there, who your members are?—*Mr. B.*: Yes; the local people do know that, and the police and everybody else in the neighbourhood, and the neighbours have been quite helpful in finding employment for various members. In view of the good feeling that has been created through the house, it was considered advisable to start another one in the same locality.

386. You have not found it any embarrassment in your work, the fact that it is known all your members have served sentences?—Actually the majority of the ones there, when they reach a different social level they are not worried quite so much. They know they have got a record, and when you have a record the only thing to do is to live it down; if you try to hide it somebody always brings it up, so it is better to put it to the forefront so that everybody knows.

387. *Lord Wheatley*: I would like to follow up something which Mr. R. said. Is the proper inference from what you have said, Mr. R. that among intelligent recidivists, as distinct from inadequates, there is a climate of resistance against official after-care?—*Mr. R.*: I think among all persons leaving prison there is a slight feeling, not of resentment, but a slight resistance to official help. And I think probably in other walks of life people do not want to have welfare imposed on them. I think they want to be put in a position where they can help themselves. We would probably go to our families for help rather than go to an official body. If I may harp back, Mr.

Chairman, to when you asked do we disapprove of the Norman House type of thing, I would like to say that one must understand the phase any institution or charity is in. Norman House is a comparatively young movement I believe, and like all young movements it has retained its impetus, it is going forward. Perhaps in fifty or a hundred years' time when Norman House is completely different, when it has reached its zenith and is living for its own existence rather than for the existence of those it was meant to serve, then perhaps Norman House would be like some of the old out-worn charities that do not have a place in modern society at all. Certainly all these institutions in their time have served a very useful purpose. I believe some of them have passed the top and have come so far downhill that they only serve to prop themselves up by Parkinson's law.

388. *Mr. Iremonger*: Might I follow what Lord Wheatley has said and what has just been said by Mr. R. Reverting to this question of the difficulty of discharged prisoners being able to accept from authority, as you might say, assistance and guidance because they feel a kind of resentment, they sense a disapproval and a censoriousness which means that it is not acceptable; it does seem to me there is this difficulty, that while you have an organisation of peers, to each member of which the help of the organisation is acceptable, the established authoritarian bodies which might cause resentment have in fact a great source of skill and experience, and resources which are obviously needed. To what extent is the recidivists' organisation outside able to produce from among its own members those with sufficient flexibility of mind and attitude to go to authority and act as a go-between? I am suggesting in fact that absolutely left to itself such an organisation as this might start to flounder badly and might really need help. How far is it possible for Mr. R., if he were in that position, to go to official bodies and say, we need your help, but you had better not come any heavy stuff in this because our people might resent it? How far is that possible?—We do work quite closely with

individuals who also work with other groups. We do not deal directly with the Howard League or any particular group, but we may be very closely associated with and receive great help from individuals who are members of that other group; these are our chosen contacts, the people whom we believe understand the situation somewhat better than most, and at that level I think we have very many valuable friends among the better known institutions.

389. *Lady Wootton*: Do you know whether your house is self-supporting, if you run that side of it? Do the inmates pay their way?—The inmates contribute a weekly sum which actually does cover the running costs.

390. They actually keep it up?—We are in the process of analysing all the house expenses at the moment, and it is quite clear that the house, as such, is paying its way. But unfortunately it is a very small project, it is only a glorified two up and two down. We are paying the woman who looks after it a decent weeks' wage, and I am afraid the prisoners' contributions do not cover that. So if everything is taken into consideration it is being run at a loss; but that is perhaps because the house is too small with only four or five people as tenants.

391. If it is paying its ordinary running costs, as I understand from what you say, it does suggest that on a rather larger scale you might be able to develop this without incurring a heavy financial burden.—We believe with a bigger house there would be a better balance between the living expenses and the administrative expenses.

392. *Mr. Justice Edmund Davies*: I would like to ask you three questions on this. First of all, how many are there in the Acton House? Secondly, do you envisage Recidivists Anonymous becoming so widespread as to be able to deal with the whole problem; and thirdly, if you do not what suggestions have you for improving after-care work and the attitude of those who take part in it?—Acton is meant to accommodate four or five men. We have had sometimes at weekends nine men staying there at one time—but it is not quite clear how they were all sleeping

there. There are three bedrooms, and each has two beds, but there are a few day beds or something of that nature which can be pressed into service in an emergency. It is our aim never to refuse a person accommodation under any circumstances.

393. The number is small. Do you envisage the idea becoming so acceptable that the whole after-care of ex-prisoners could come under your charge; and if you do not, so that you have got to have these do-gooders in the work, what can be done to make the do-gooders not so manifestly do-gooders and nevertheless do good work?—I am afraid you are looking at this again from the administrative angle. We look upon it as people coming out of prison who must look after themselves, and it is up to them to form themselves into groups to support themselves with the people in the area, or in that community, or from that prison, or from that town, depending on the size, with the co-operation of any government department, charity, or other organisation which can help towards that end. We do not altogether despise the do-gooders; we have quite a few of them who can help by doing work in this sphere. But this is the groundwork; it has to be brought out of the people themselves. It has happened in Wandsworth, it is happening in Chelmsford, we are hoping it will happen in other prisons where we can sow the seeds; but it cannot be done from Whitehall.

394. *Chairman:* I think as I understood it Mr. Justice Edmund Davies' question was do you feel your society is so basically sound that it could spread and cover the main field of work, rather than administrative arrangements based on some official body?—The trouble is that this cannot be imposed. There is no way it can be imposed.

395. Would it be likely to grow to a sufficient extent to cover the whole field?—I believe so; because not only do the men themselves have to develop their ideas and enlarge their horizons by some sort of social education, but we in turn must also educate those with whom we come into contact.

396. *The Bishop of Exeter:* What steps, if any, are being taken, or what steps is it hoped will be taken to create these groups

in other prisons? What is the hope that this movement will actually spread?

397. *Mr. Millard:* There is a question I want to ask on this. What is the attitude of the authorities in the two prisons, the attitude of the staff; perhaps you might deal with those points together?

398. *Chairman:* There you have two questions.—*Mr. B.:* I can answer the last one. The authorities, it is like everything else, it is something new, so their attitude is midway. We have had quite a lot of co-operation from the Governor recently, that was once he could see it was being a success.

399. *Mr. Millard:* At which prison?—This is in Wandsworth. I cannot speak for Chelmsford because I do not know a lot about the Chelmsford movement; but in Wandsworth we have had quite a lot of co-operation both from the Governor and the Assistant Governor.—*Mr. G.:* If you take the overall picture, it is like most innovations, it is treated with official scepticism at the outset, but once it has proved itself—and we are certain so far as Wandsworth is concerned that it has proved itself—we find official approval from all sides. In recent months we received a considerable amount of help from official sources. So far as the Assistant Governor in Wandsworth is concerned, who is the person directly associated with this Recidivists Anonymous scheme—it is confined at the moment to two wings in Wandsworth—he has played a reasonably active part in conjunction with the outside group and the H. and K. Wings.

400. *Chairman:* And the Bishop's question was, what prospects do you see of starting similar branches in other institutions?—So far as Chelmsford is concerned, whilst I cannot speak from personal experience, I think the figures which you have already had before you are ample justification of that. In Lincoln, and I believe Preston and Swansea there have been initial rumblings, I would not go further than that. On the other hand in Norwich the Governor was the former Assistant Governor of Wandsworth, and I understand he gave a quite categorical no because he did not want any fuss.

401. *The Bishop of Exeter*: That was in Norwich?—In Norwich.

402. *Mr. Iremonger*: I have been twice down to Recidivists Anonymous in H. and K., and my own impression was that the Governor, and particularly the Assistant Governor, whose own pigeon it was, were profoundly enthusiastic and committed to this; but I thought one of the most interesting things about it was the attitude of the prison officers themselves, the difficulty they had in accepting it, the great courage many of them showed in accepting it, and the way in which they gradually managed to persuade their colleagues how to handle it in the right way; and I think it showed how totally inadequate their training in the past had been. The question I would like to ask is this; how far is the resistance in the traditional prison system firstly in the officers and secondly in the prisoners themselves—how far is that easily broken down? How difficult is it for a recidivist in the H. and K. Wings to get himself out of the approved atmosphere and attitude of the rest of the prison; how difficult is it felt by prisoners to co-operate with the officers? The question was raised about the possibility of starting in other prisons; what obstacles would you say exist?—I think the principal obstacle, at least as far as H. and K. Wings are concerned, is this, that the scheme, as you know when it was started had a hard core of officers—whether they were originally selected because of their sympathy towards it I do not know, I was not there myself. But of those officers, of course, some have been transferred to other prisons, some are now in other wings within the main prison, so we have virtually a total turnover. I think if it were possible for the scheme to have perpetuated itself with the original uniformed staff it would have gone much further than it has now. But I believe I am right in saying that the official attitude was that each member of the uniformed staff should be given a spell of duty in H. and K. for the good of all. My own view, and I think my colleagues probably would bear me out, is that it does not work that way. There is a percentage of the uniformed staff which is in favour and always will be. On the other

hand the large proportion of the uniformed staff do not want it at any price. If it were possible to keep the original ones there, those who do believe in it, then I think we would go much further than we would otherwise.

403. *Mr. Iremonger*: And what about the prisoners' attitude, the attitude of the other prisoners?—Do you mean the prisoners attitude in H. and K., or the prison as a whole?

404. What I mean is, if you are in Wandsworth and you are one of the prisoners and there is a prison atmosphere, a prison confrontation with authority; how difficult is it for someone going into H. and K., totally to break with that attitude? What is the moral restraint on a prisoner in respect of his relations with other prisoners in making this leap?—It has probably been breached to a certain extent; because whilst all the men in H. and K. are segregated from the living point of view, the fact remains that in the various workshops they are still working with people in the main prison; so by the time a man is transferred from A. or B. wing to H. and K., he already has a pretty fair idea of what it is all about, because he is working in the workshops with men who are in H. and K.

405. And somebody going up, would he be regarded as a blackleg, working his way up?—*Mr. R.*: I remember in one shop I was working in, sometimes the H. and K. men were brought in for lunch a few minutes before the other chaps—it was just a matter of convenience in escorting them—and I remember when that did happen and the H. and K. Wings did stand up and march out, there would be rather a good-natured hiss, but it was a good-natured hiss.—*Mr. P.*: I cannot help commenting on this. When one is inquiring into the structure one is tempted to touch here and there on certain aspects of the whole problem, relations with the prison staff and so on. In our discussions in H. and K. we came to a very firm conclusion, and that is that one cannot really divorce any one aspect of the whole subject of penal reform from the moment that a man transgresses the law until he finds himself free on the street again. It is one vast sausage machine. Earlier on the

subject of do-gooders and official welfare organisations was raised. Having been in a sausage machine from the start, any continuation of that, which is bound to have a sort of clinical attitude about it, must be detrimental unless the man is very inadequate.

406. *Lady Wootton*: I also was in H. and K. Wings a little while back, and I was struck by a number of practical suggestions made by the prisoners, things like insurance cards and income tax codings. You are not suggesting that a released prisoner does not want some kind of practical welfare of that kind which is going to deal with these concrete things, or are you?—*Mr. B.*: Actually I was on the welfare side inside for quite a few months, and I deal with these questions. Anything that has to do with the welfare of the chaps at all we are interested in—it does not matter what body does the work. You find a lot of chaps perhaps cannot read or write very well, and we write letters on their behalf, we write to official bodies. We have no intention of jumping up and saying we can do the job better than you, because we obviously cannot; but we can help somebody else, and a chap would rather be helped by one of his own kind than by somebody he does not know. It is like having somebody in power up above him and he has got to bow down; whereas, when they go out they want to say, "I am free", and if they can approach someone voluntarily they feel much better.

407. In other words, after-care starts in the prison?—It would be a good idea.—*Mr. G.*: This attitude is probably best summed up by the fact that there is a certain amount of resentment that somebody who is completely divorced from the realities of a man takes it upon himself or herself to know what is best for him and does it without reference to what the man thinks himself. Whereas group therapy may work from the physical point of view; with 20 people who have a broken ankle, for example, it does not matter how they got the broken ankle it would be treated in the same way; but the welfare problem, the problem of the human mind is an entirely different problem and as such each man should be treated as an individual,

which I think is not possible in any sort of vast official organisation.

408. *The Hon. S. Silkin*: Would you say there has been encouragement or discouragement from the official side of attempts by individual prisoners like yourselves to help others in this way?—There is every encouragement. The more we show a disposition to help ourselves and our fellow-members, the more we are encouraged.

409. And that is true inside the prison as well as outside?—I am referring to inside.

410. *Mrs. Warburton*: From what you are saying one has the impression of the shaping of personal initiative. Instead of passively being helped, you are saying on the contrary that you can help yourselves. Could you expand how it is being done, how it can be done or ought to be done so as not to lose the initiative and not to become part of a vast sausage machine?

411. *Lady Wootton*: On page 5 of your paper you say:

"Whilst it would be very desirable, and mechanically a simple operation, to introduce conditions less conducive to physical deterioration, the creation of an environment in which the mind will not suffer is a task for which half measures will not suffice".

You speak of this as a thing which could be done without too much difficulty.—*Mr. B.*: I think it could be done providing the staff and the people actually taking part in it were co-operative in the idea and thought well about it. As we said, when all the staff were picked men in favour of this type of thing, rehabilitation and so on, everything was running smoothly and there was a much better atmosphere completely in H. and K. Wings. The individual men were encouraged in every way, we used to run discussion groups to get the men talking and get their minds working, and everybody joined in. But then you get the change over of the staff and if you get one unco-operative officer the men will say: "If they are going to be like that we will be like it as well", and it starts all over again.—*Mr. G.*: To revert to your original question, the answer really is that official organisations such as the prison

welfare system, whilst admirable in their concept and in many cases in their execution, can only go so far. The tendency, not only with that but also for instance with the Ministry of Labour representatives, the tendency is to regard a chap as someone to be fitted into a pigeon hole. A comes out of prison or is about to come out of prison; no matter who A is, was or hopes to be, A can expect no more than a job; and as long as one job is taken out of one pigeon hole and A is taken out of another pigeon hole, the two can be married. We would like to see the men regarded as individuals, and furthermore not as second-rate individuals. They have served their sentences and they are entitled, whilst not to favouritism, to a reasonable opportunity to pursue their normal development.

412. *Mrs. Warburton*: I did not really get in my question, with regard to the crushing of initiative in the day to day routine of prison. It seems to me to resemble what you get in a hospital, you get into the routine of that, without exercising any personal initiative, and you live through that from day to day. That is the thing I would like you to expand on, how you are more or less brought down to the lowest possible denominator.—*Mr. B.*: I think perhaps you mean a job such as those in the mail bag shop, or something like that. That is about the hardest thing to stand when you are in an institution.

413. How do you think this could be avoided?—The only thing that could be done as a practical thing would be to find a useful means of work, so that the men are using their minds. I have been working in the carpenters' shop, and that is the sort of job where you are using tools and have to use your mind; but if you are not so fortunate as that and are in the mail bag shop, you sit down there all day long sewing bags which will be burnt somewhere at a later date once they have got it finished, and it is something which has no sense in it at all. You are depriving a man of his initiative; he has got nothing else to do. If you can you must put something in front of a man where he must think, even if only to a small extent.

414. *Chairman*: What are the forms of work you come across in that last category?—Carpentry, the shoe making shop, the brush shop; although that is not a very popular shop it is useful because you have got to think while you are working. But the one I am really against is the mail bag shop, because there is absolutely no sense in it, especially as it is something a machine could do in a few minutes.—*Mr. G.*: Including the mail bag repair shop, officially known as the tin tack tailors, this is a shop into which they put a man who is unemployable anywhere else, and in prison that is saying a very great deal. If there is nothing else to which they could put you then they put you there or possibly on all sorts of physical jobs all lumped together in this one shop, any odd jobs which have to be done and which are not particularly useful.—*Mr. R.*: The root of the matter here is the question of selection, segregation and so on, right at the start of a sentence. Take for example Wandsworth Prison, which is known technically as a maximum security prison. Here you have virtually the maximum number of warders, despite the fact that there is a shortage in the service; and of the 1,500 men perhaps you could pick out a hundred who require that maximum security and supervision. Out of say 1,500, I can only guess, that there might be 100 or 200 of those 1,500 who require the conditions of full security supervision and special watch and so on.

415. *Mr. Iremonger*: Because they are constantly trying to escape?—Yes, let us say that, or perhaps are violent in their behaviour. But then the rest of those 1,500, the vast majority of those people do not require the amount of supervision which is there at the moment. In other words, these people should have been separated at the beginning. If these people had been separated and put in different establishments in the first instance where various degrees of supervision were to hand, you would not really be faced with this question of men being watched every minute of the day, told what to do, when to go out to the lavatory, when to eat, when to turn the light out or have the light turned out for them. This all takes time. As long as a man has got a prison officer

standing over him, watching him, telling him, exactly what to do every minute of the day, you will have this mental deterioration, in addition to the physical deterioration which must take place in a closed wall prison where a man spends the bulk of the 24 hour day locked up in a very small room. These are things which have got to be taken into account.

416. *Chairman*: How quickly do you think such a classification could be done—that is to say, a judgment reached as to what degree of supervision a person requires, in what group he can be classified?—We have touched on this in our written evidence when we suggest a system of imprisonment by stages.

417. This is your stage one?—This is stage one. To fix an exact period of time off the cuff is not possible. Some experimentation would have to be gone into. But I think certainly from my experience and probably from the experience of those here today, it would not usually take more than a few weeks to find out what sort of chaps you had got on your hands.

418. You think in two or three weeks?—Yes, something of a very short order. At the moment, for example, if you have a man serving three years, he may spend a year under strict supervision and another year in H. and K. where there is slightly less supervision. But at the same time, although you have got the men locked up behind security doors, you have got many warders wandering about all over the prison, their hands in their pockets, literally not knowing what to do. That is a plain fact. No one is suggesting there is not a shortage of staff. But if those men's energy were devoted to watching those who do require watching you would relieve this oppressive atmosphere which the men who do not require it have to suffer. Have I made myself clear on this?

419. *Lord Wheatley*: Would it be true that we could break down this question of security under two aspects. First there is security within the whole prison, that is to say so that people cannot walk in and out at will. Then there is the security which

consists of supervising people within the prison community every moment of the day, and locking them in cells. Is it your argument that a decision could be made about this second kind of security—that is to say freedom within the prison walls—in two or three weeks? Would you equally argue that within two or three weeks you would be able to select someone to be put in an open prison?—I might answer that by quoting current practice. They discovered I could go to open prison I think in six days; and this was common with most of those who were with me. The proportion of those who walk out of open prison is very small.

420. You think both selections could be made very shortly?—With the majority of men, yes.

421. *Chairman*: Casting your mind back, what would be the disincentive to your walking out of open prison which would lead to your not walking out?—I think, when one is thinking in terms of shorter sentences, not more than say two or three years, most men's desire is to get it over. A bloke of even average intelligence knows that the chances of getting away with an escape and remaining at liberty are very small. The greatest deterrent I would say, and perhaps you would like to ask the others present what they think of this, is the fact that they want to get it over quickly, and the quickest way is to stay there and keep your nose clean.

422. I think I would like to ask the others. —*Mr. G.*: Possibly if I could add a word on this question of security within the prison, whilst the prison overall is secure; I served my last sentence at Maidstone, which is secure in the sense that there is a wall round it, and one cannot walk in and out of prison at will; but nevertheless within the confines of the wall, from 7 o'clock in the morning until 8 o'clock in the evening—I am going back ten years now—every door was unlocked. There was the system of blue band and red band within the prison, but that was virtually run by the men themselves. There was a sort of inner parliament of thirty blue bands who met once a month with the Governor and

chief officers to discuss internal administration, and the system worked perfectly well; so therefore you can have a prison which is secure as a whole and yet within is entirely open.

423. Those thirty would be rather like school monitors?—Yes.

424. *Lord Wheatley*: Is that a pattern which could be widely applied throughout the prison service?—I think it could.

—*Mr. B.*: When you look at H. and K. itself, it does prove the point. You can separate the violent cases and those who for security reasons cannot be left alone from the others.—*Mr. G.*: I do not know what the policy is at Maidstone now, but at the time the people who were going there were selected within a few weeks of the beginning of their sentence; so it does establish it is possible to select those people within a very short time.

425. *Chairman*: Are there any others, apart from the ones you mentioned, they are making into open prisons?—*Mr. B.*: I went to the Verne, Portland. That is a semi-security prison. Actually it is rather like an army camp arrangement. There is barbed wire all round and two gates: You can walk anywhere you like within the prison, and you go to work. It is run rather on army lines, boots and gaiters sort of thing. Over night there are various recreations. You will find the average man there looks at it from the commonsense point of view. He knows that if he tries to run away he ends up locked in a cell, so what is the good of running away? They could leave my door open all day and night, and I am not going to go anywhere. The average man in prison would look at it in the same way.

426. *Dr. Gibbens*: I can appreciate when you are moved to different institutions, if you select people and send them to Maidstone, Verne and so on, then you get a selective population there. In a prison like Wandsworth, to what extent are you being protected from your fellow-prisoners? What proportion of your fellow-prisoners is there who might be liable to make trouble for you and from whom you have to be, so to speak, protected to some extent?—That would

be a very small percentage. The groups that are likely to cause any trouble at all are usually very much in the minority; and I am talking from my own experience.

427. *Chairman*: When you say they are very much in the minority, would you think about 5 per cent?—Yes, 5 per cent I should say; you will always get people who will try to fiddle a cup of tea or something like that, it is human nature that they try to do that sort of thing. But so far as the normal fellow is concerned, people just do not want to make trouble because it is not worthwhile.

428. *Dr. Gibbens*: Could the authorities detect this sort of person as easily as the person who is a menace from the security point of view? Supposing you have a man who is liable to make trouble for his own fellow-prisoners, he is presumably a less easy man to discover and might present more of a problem?—Not usually. The wings are run more or less on a commonsense basis and mainly the chaps run them themselves. That is what it boils down to. You always get trouble-makers, you will get them in any group; but when you use commonsense there are never any fights. You get a chap who is awkward when you have called a meeting, so you bar him from the meetings for a time and he is barred. Then he sees what he has done wrong, knows why he is barred and he keeps quiet at the next one when the bar is over, or he does not come. It is commonsense thinking. They do not get violent, because as I say the opinion of the great majority of the people there, is against them. The majority of men in prison are reasonable-thinking. They cannot always put their arguments, but if you can talk to them and understand, you find a lot of clear thinking.—*Mr. G.*: It takes only a very limited period for the trouble-maker to reveal himself. You have the introduction of G wing which is an off-shoot of H. and K.; and the normal time a man spends in G. is three weeks. If he is an incipient trouble-maker it is usually possible to find that out before the end of the three weeks.

429. *Mr. Justice Edmund Davies*: May I ask this question, with regard to after-care, which is vitally important? It arises out of something Mr. B. said when he talked

about the work and the obvious desirability of having a good deal of attractive and stimulating work provided. Mr. G. did refer to some men as unemployable. If a man is unemployable what can be done with him when he goes out of prison? What can Recidivists Anonymous do with him? Mr. R. said, "We never refuse anybody". What do you do in such a case? Do you carry him? Is it your idea to carry him for the rest of his life? And if not, what about the institutions, the present institutions of the do-gooders?—Mr. B.: So far as we are concerned nobody is really beyond help. There are some, we know who actually are, many alcoholics, shall we say, meth drinkers or something like that. We feel that they are not in effect criminals and should not be kept in prison, because the only crime they are committing they are committing against themselves. What we would visualise is some form of camp or home where those people could be kept, but we think they should be segregated from the actual prison because, let us face it, if a man is a drunkard he is not really committing a criminal act.

430. It is not really an answer to my question. The man, who, for some reason, perhaps inadequacy of personality, cannot be employed, what is to happen to him when he comes out?—Mr. R.: I think it is more or less established, in the case where a person is so inadequate, at any age, whether it be in his teens or in his sixties, if he is unable to support himself without getting into an unholy tangle, without getting into a complete mess, it is the State's responsibility to support him. It is our duty, the duty of our members, to try to get these people right if they happen to be our associates. But once it is clear that neither God nor man can prop a man up for the rest of his life, then it is the State's responsibility. We do not say we are going to do it for ever; but at some stage it must be possible to certify a man who is incompetent in that respect—not insane but simply incompetent.

431. Mr. Millard: To go back to the point of security. You have been speaking about the H. and K. Wings. Would you feel that there are a large number of men in H. and K. who could perfectly well go to open

prison?—Mr. G.: A very high proportion.—Mr. B.: Actually we could go. I could have gone as far back as last August, but I stood a chance where I was, a very limited chance of a hostel, which I thought would have done me more good, so I refused.

432. The Hon. S. Silkin: Could I follow that point with the question I was going to ask, as to how you would compare between a completely open prison. The completely open conditions that some of you have experienced and the conditions of minimum security within a security prison which you have also experienced. Which do you prefer and why? What are the factors? Do you think there is any great value in the open system over and above the system of minimum security within a wall, as it were?—Mr. P.: That could be answered very simply, that psychologically every individual differs as to how he is affected by conditions of this nature.

433. Chairman: Mr. Silkin wanted to know which you thought preferable?—For my own part I would say open conditions; but some men will turn to you and say they prefer to be behind a wall because then the temptation does not arise.—Mr. G.: There are many answers to this, but I would say one can only look at the majority, and I would repeat what I said before, that statistics do prove that the vast majority do not run away when faced with open conditions, and this would suggest that they prefer to be there rather than locked up.

434. Chairman: If somebody expressed a preference not to go to an open prison, that might be because it would put too much temptation in his way, it might be because he would find the life rather more challenging than it would be in a closed prison. We have been told there are some who, if offered the opportunity, would prefer to stay even in a fully closed prison.—Mr. P.: I would suggest that in most of these instances it is a symptom of institutionalisation.

435. Lady Wootton: I am not quite clear about what you said as to the thoroughly inadequate people. You said that the really inadequate people ought not to be imprisoned at all they ought to be in some

kind of shelter, home or camp. Is it possible, in your view, that the whole prison system which, after all, is changing very much, may develop into a form in which you have every kind of institution, and some of them—it does not matter whether you would call them prison or use some other name—some of them would be providing this kind of sheltered environment for people who could not make a go of life in the ordinary world? I do not quite know how you draw your sharp distinction between a prison in which these people ought not to be, and a home or camp providing a sheltered environment in which they might be kept—might they not all come inside the system if it were much more flexible?—*Mr. S.*: After I returned to Wandsworth after an operation, the doctors said I could only do a light task, so they put me into the shop where there were meths drinkers, people who were there for a few nights at a time; and these people should not have been in prison at all.

436. You are surely saying they should never be in that type of prison; but can we not envisage a very flexible system in which you have something completely open at one end and a maximum security prison for the very small proportion who are really dangerous people?—*Mr. S.*: Yes, Madam. To be put in a position where you are trusted, to me at least it gives the feeling that confidence has been placed in me. I respect that, and I try to carry it out to the best of my ability. If I was offered an open prison—which I have been—I would never let that trust down, and I think that applies to a lot of prisoners.—*Mr. G.*: There is a tendency for people to respond to confidential trust placed in them, from their own point of view as well. It appeals to them morally, it appeals to them aesthetically and at the same time it does of course show officialdom that it can be done.

437. *Dr. Gibbens*: Could I follow with a question related to your memorandum. You talk about probation in this memorandum, and you make what is an unusual statement about it, that probation should be tougher, that there must be a good relationship with the probation officer, but the probation officer ought to be able

to make enquiries at the probationer's place of work, and should sometimes see him even once a day. This is a much stricter view of probation. The probation service works on the basis that if you put that degree of pressure on a person, probation will not work. You in your memorandum say exactly the opposite, that probation should be a very close degree of supervision and you should chase up the chap very hard. How do you reconcile this with the feeling of trust?—Yes. We thought very deeply about this when going into the subject, but we regard probation as preferable to a term of imprisonment whenever possible. We know in theory this is the official attitude; but from the experience of all those whom we questioned fairly thoroughly on this subject, and whose records we can virtually read subsequent to their period of probation, we felt that by and large among prisoners it is admitted as being ineffectual and making very little impression on the majority. The people obviously whom we could not question and who had been on probation were those who had not come to prison. Obviously this is a loophole in our findings; but so many people in prison have been on probation and have told us the facts of their conditions of probation and what they had to do and so on, and that convinced us that if there had been far more supervision, far more checking up, it might well have made a very great deal of difference, it might have made them do a lot more thinking before getting themselves into bother. At the present we feel that probation is ineffectual.

438. Do you think there might be two forms of probation, one which is, as you say, light and based on a friendly relationship without chasing a person up, and that there should be a stricter kind of probation also which is another grade?—As we say in our paper, we have envisaged a graduated variable sentence in stages, with less and less supervision, finally finishing up outside with the minimum supervision. No doubt there could be a graduated form of probation as well.

439. *Chairman*: The point is that if there was too much authority behind the supervision which the probation officer has to

give, that would destroy the relationship with him?—That would obviously depend upon the recruitment of probation officers. It is a very difficult problem of course. One could say the same thing about probation officers as prison officers and policemen, the standard of recruitment could be very much higher. Again this may put a burden on the public pocket, but this burden would perhaps be offset by a lessening in the crime rate and the number of people having to be housed in Her Majesty's Prisons.—*Mr. R.*: We have had a very recent discussion on this question of probation officers, and we have fairly definitely come to the opinion that the type of person who is a probation officer now comes from a very small group of people within the community as a whole. They are all the school teacher type, the military type, the prison officer type, and we think it might be feasible to have something like part-time probation officers, probation officers who are plumbers during the day perhaps, and who are obviously from the same environment as the probationer, and we feel there would be closer contact between the two. If you have a chap brought up in Stepney and he is probationed to a very well-meaning fellow from East Grinstead, brought up to a different kind of life, they can never reach any real relationship. It is bound to be a bit artificial. But if you have people who are doing an ordinary day's work who can devote three or four nights a week to this type of thing, with the court's approval, and there are a great many people like that, I can assure you, because I have met hundreds of them, then I think you might have a completely different situation. On the other point, I would not say two types of probation; I think there should be hundreds of types of probation to suit the needs of every man, and this must be decided by the probation officer.

440. *Professor Morris*: Just to follow up on the point Dr. Gibbens made about probation; there is a strong submission on page 3 that probation officers' powers and the authority of probation officers should be far more comprehensive.—*Mr. B.*: I think what we envisage on that particular point is probation as an alternative to

imprisonment. We do not necessarily mean first offenders there, we mean a man who might have had three or five convictions, or even more, that you might give him the chance of probation but you would have to give the probation officer powers to keep that man in order. He could have the choice of imprisonment, which is an utter waste of time, or of probation which could put him on the right road; and I should think that the average man—and we have gone into this with our members and put it up to them—it has always been our opinion that the average man would prefer the probation officer to have these powers rather than have to waste time in prison.

441. Does this not rather conflict with the point of view of Mr. R.? Is your point of view, Mr. R., not rather a different one from the one expressed here?—*Mr. R.*: I do not think so. We believe that probation officers must have very wide powers so that they can deal with all the situations which might arise during probation. If a probation officer does not have the power to deal with virtually every contingency, he is not in a position to discharge his job properly; but he must not be limited by restrictions laid down just for the love of restrictions.

442. *Lady Adrian*: Are you not asking for a superman as probation officer?—No, I do not think so. I do not think this requires a superman at all; or rather, I think the ordinary man is in fact a superman if you give him a chance to do what has got to be done. In prison and out of prison we have met, in many walks of life, extraordinary people who are capable of doing a tremendous amount of good and who want to do good, and they are not given an opportunity.

443. I have a great sympathy with your suggestion that there should be part-time auxiliary probation officers and people who can get into much closer touch with the probationer; but are you suggesting you should give those people these enhanced powers, not exactly of life and death, but powers of freedom and otherwise?—I think so. I cannot see any other possibility. The point is we are looking upon probation as an alternative to imprisonment; and we think that any

restrictions, short of actual imprisonment, are reasonable in the circumstances. It is better for a man to be under open imprisonment outside, at the same time being restricted to some extent by a probation officer, than it is for him to be imprisoned.

Chairman: I think we understand your argument here very well and what you are aiming at; we see the point of that, I think our doubt is rather as to the practicability of it.

444. *Mrs. Warburton:* Do you envisage that each probation officer should have only one person on probation, or several whom he would be looking after? It would seem that each probationer would require a great deal of the probation officer's time if you envisage that he is going to see that each probationer is of good behaviour, because that really amounts to propping somebody up to a certain extent.—The probation service could certainly do with a lot more people.

445. *Mr. Justice Edmund Davies:* You would prefer every time probation rather than prison if it is possible; you start from that point of view. At present we regard probation officers as hard working; they might not always be very good but they are very hard working, their case loads are tremendous. Where are you going to get these part-time people into the service. A plumber, for example, working in his spare time, he is going to be a do-gooder. He may speak the language of the man he is looking after, and that is an initial advantage. But how are you going to get all this number of people who, after a hard day's work would have the opportunity and the energy and would be the right type to do it? At present probation officers do not require any greater powers. You are suggesting that they ought to have wider powers, but there is no statute which places a limit on the number of visits a probation officer may make or the number of times he may ask the probationer to report. You do not require legislation for that. At the moment they find they are extended to breaking point in the present set-up. How are you going to get in sufficient numbers the people who, after a full working day, are going to

deal with the number of people on probation, an increased number if you visualise probation as an alternative to imprisonment, and also to do the extended work you have in mind for them?—This is a thing you do not know until you try to find whether these people are available. I know they exist.

446. *The Bishop of Exeter:* They would be available if they were paid, I suppose?—Yes, and I would certainly object to voluntary work, I would much prefer to see them paid and paid a reasonable amount.—*Mr. G.:* Judging by the number of people who come into H. and K. Wings at the moment in the evenings to play a part in the various activities, who do this quite voluntarily without payment, and a large proportion of whom have said in conversation, after a meeting has been held, how interested they are in this sort of thing, how much they would like to do something in excess of what they are permitted to do. I feel it is reasonable to suppose on that basis that these people would be forthcoming.

447. *The Hon. S. Silkin:* These people who come in to meet the prisoners, the people you have just been talking about, are they the type you have described as the ordinary working man?—Some are and some are not, but even those who do not come into that category professionally, would I feel still have the degree of insight into the people with whom they would be dealing to identify with them.—*Mr. S.:* You find these people working part-time within the voluntary organisations; they do that work voluntarily.

448. May I go back to an observation made I think by two of you earlier on, when I put a question about the difference between minimum security conditions and open conditions, and two of you said you had the opportunity of going into open conditions but did not because you were hoping for hostels. As a matter of fact, is it an impediment to the possibility of going into a hostel that you are sent to open conditions, or is believed to be, or what is the situation?—*Mr. B.:* I can tell you what the situation is in my own case and why I refused. I had been over at H. and K. Wing for about six months,

and I was called up and asked if I would care to go—it was to Maidstone actually, but you transfer to their open camp. I asked, I believe it was the Assistant Governor, if I would be eligible for their hostel, and he said no, I would not be, as they had too many there at the moment. So in view of that I asked if I could stop; because to me it made more sense, a chance of a hostel where I could go out and earn some money to get on my feet when I was released, rather than go into a camp with just an easier time.

449. *Chairman*: It was because of the shortage of places in the hostels?—Yes.

—*Mr. G.*: I can go further I believe I am right in saying that not every open prison has a hostel attached to it anyway. That is the principal impediment. If a man goes to an open prison, whilst he may have a more rewarding life during the period which he spends in prison, he has not the opportunity of a hostel there, and as *Mr. B.* said just now, somebody who has been through the hostel scheme not only starts his eventual release with a job but also starts with some money as well.

450. *The Hon. S. Silkin*: Once you are transferred to open prison you would have little expectation of coming back to get a chance of a place at a hostel?—It has happened. As a matter of fact there are two men in H. and K. at the moment who have come back specifically to be considered for the hostel scheme. But when I say there are in the Wandsworth hostel twelve places, and most boards have an average of fifteen to twenty people up for consideration, and for each board there are anything from three to five places available, you can imagine the odds against, even for a man who has come back from an open prison.—*Mr. M.*: I was in an open prison, and the reason I went was to see my family more often. Then I came back because I wanted to have a chance for a hostel. I was fortunate enough to get the hostel; why I do not know, but I was fortunate enough to get it.

451. *Lady Wootton*: At present a hostel is a very limited privilege and a very small number of men get the opportunity of it. Have you thought at all whether any part of the prison population might,

instead of serving a prison sentence, serve what you might call a hostel sentence from the beginning, or almost from the beginning?—Yes.

452. *Lady Wootton*: And what sort of proportion of the people you know do you think would be suitable for this hostel treatment and what proportion in prison?

453. *Mr. Iremonger*: Could I throw in what I want to say here so that it could be considered at the same time, because I was very struck by the fact that *Mr. M.* mentioned his family, and he is the first person who has mentioned the family problem.—*Mr. S.*: I was just going to mention that.

454. *Mr. Iremonger*: I did notice it at Wandsworth myself, the remarkable feature among the recidivist prisoners was that when you came down to figures, only 40 per cent there were either married or were in some valid relationship with a woman outside, I wondered if perhaps you could give us some guidance on this question of relationships with families outside, the special relationship of recidivists as opposed to first offenders and the effect of a prison sentence on the families, I thought this might tie up with the question of hostelisation which has been raised.

455. *Chairman*: If you would first of all deal specifically with the hostel question and then with the family links.—*Mr. R.*: I think in the written suggestions we have made, we have envisaged a stage of confined imprisonment, then a stage of social education and finally an open prison with the emphasis on preparing a man for outside conditions. Then you have the hostel stage where the man works outside, and the final stage which is after-care. There is no reason why a man could not pass through the first three stages very quickly. A man might be given a four years' imprisonment, and in the context of the present day arrangements might serve two years and eight months, I believe. There is no reason why, within four months, he could not be given the opportunity of reaching the third stage, and from there to the hostel is but a short step. It would depend on his own progress, it would depend how capable he was

himself of taking that additional responsibility. I think to limit it to a sort of patching up of the existing set-up is wrong. We have always thought of establishing a new set-up, and we are really only prepared to think seriously along those lines. The person who requires some sort of supervision, perhaps he could go straight on to a hostel, but we have suggested that he might be put on probation if he just goes over the top it is something that could be dealt with by probation, but if he does need some additional supervision or to be given social education or training of any kind, he is obviously the right candidate for our new treatment. I do not think there is any doubt about that. Flexibility is a word I think you used earlier. I think at every stage and every facet you must have flexibility; and as Mr. P. said, from the moment a man is arrested until he comes out free on the street again, we must have flexibility, otherwise you are classifying people as criminals.

456. *Mrs. Eliot Warburton:* You even carry flexibility through to this point, that you say all sentences must be variable. We are sometimes told there is great resistance to variable sentences on the ground that it puts people at the mercy of the authorities, so that one man may be released earlier and another man has to serve longer. You carry your flexibility all the way through?—This is true indeed. There is a very very strong opinion inside, it is not unanimous by any means, but prisoners as a whole, like to see the end of it, there and then, and when the judge says "Three years", the first thing they do is knock off a year for remission and say, "I will be out in July in two years' time", and that is something they look forward to. They are simply doing their bird. We want them to do something better than their bird in prison, we want to give them an opportunity of improving themselves, not just doing their bird, and if they cannot see the end of it in the old way, they will have to see the end of it working in with the system to enable them to graduate through the stages.

457. *Lady Adrian:* I think we should all agree with a staged progression of this kind; but what we are not certain of is

how far that sort of progression will work, and in what way. Somebody will have to decide who moves from one stage to another, at what moment, and I wonder how far that is going to be acceptable as fair by the prison population. If that can be achieved I think it would be a very great thing.—Mr. P. and I were engrossed in the problem of who makes the decision when a man moves from one stage to the next, and we said it was a great pity there were not more Winston Martins—he is probably the one man in the country who could help this Commission. I do not think there is a man who knows more about the problems of imprisonment than Mr. Winston Martin, and if we had a hundred and one Mr. Winston Martins we would still want that multiplied by a hundred. He is a man who simply understands. He is a prison governor, and everyone trusts this man implicitly because they know he is seriously interested in the welfare of the prisoners.—Mr. G.: To go a stage further, I think Mr. Martin trained under Mr. Vidler of Maidstone, and no one could have a better training than that.

458. *Dr. Gibbens:* If you consider the borstal sentence, this is a flexible sentence, and yet if you look at 21 different borstal institutions the amount of variation in stay of the boys is extremely small. You cannot vary it without creating a certain amount of ill-feeling between the boys. You can let a boy out in sixteen, eighteen or nineteen months, but after nineteen months he is fed up being kicked around and he obviously goes bad. So even with 21 institutions you cannot introduce much flexibility.—Mr. R.: This is because the authority itself is being institutionalised with a code of rules they create themselves—there has to be something uniform, it will be done this way with minor variation. But if flexibility were accepted and if it were accepted by authority it would be accepted by the men, because that would then become the norm.

459. *Mr. Justice Edmund Davies:* How far do you find the granting of such small privileges as are available at present

is accepted by the general prison population and how far is that resented? That might be useful as a guide to what one might anticipate if the more liberal approach you advocate were adopted.—This is in fact institutionalisation. The chap who is allocated one letter a week, writes one letter a week because he gets one letter. If the things were optional he would write to someone once a month because he hates writing letters. There is jealousy because so and so always gets an extra letter each week. This is the institutional approach to it.

460. *Professor Morris*: Would it not be a serious impediment to the system if you got a batch of people in one institution who were inadequate. Obviously that group would tend to be slower in going on through all the stages. Would you not get a resentment by those who were left behind, which is paralleled perhaps in the educational field by the split between the grammar school and the secondary modern school kind of education.—*Mr. P.*: I do not think the resentment would be very great, or any greater than it is now.

461. *Mr. Iremonger*: I am personally strongly biased in favour of the idea of flexibility, of a man working his way and using his time in prison to improve his general attitude and his will to do better. Yet I must say I am not sure Dr. Gibbens' point has been entirely taken. Dr. Gibbens was saying that if you have a flexible system, and therefore you say to people, "The better you do, the sooner you go out", you will find people always think they are doing a little better than perhaps they are, and those who are kept back become so resentful that the system defeats its own object and they do not try at all. I have not discussed it with Dr. Gibbens, but obviously it is common experience within institutions that they cannot really bring the whole policy to bear upon people once they begin to get disappointed or disgruntled.—Could I say briefly that we must not forget that right at the start we would try to group these people and put them through the stages of their sentences in batches which were approximately of a similar adequacy.

462. *Chairman*: You mean put them in different institutions?—Yes, so that you are not going to have the bright boy alongside the dull boy.

463. That would mean effective classification from the start.—The whole thing depends right from the start on the classification.—*Mr. G.*: With a system of streaming such as is done in comprehensive schools.

464. *Mr. Iremonger*: You would have an institution to which the slower progressors went and they would not be jealous of people getting out faster because most of them would progress at the same rate. They would not be jealous of those who went to other institutions where the normal progress was faster and the people got out faster?—Not once they were in their own stream.—*Mr. B.*: You get that when you get people segregated more or less like in the H. and K. Wings, which is a typical example. Once you get where you can form your own initiative, where is it appreciated, and if you have something to work for, like an earlier release date, you will work for it because you have something to work for. At present you can aim at the hostel scheme, but when you have not got the hostel scheme you have got nothing to work for. You know you are going to carry on doing your bird, but there is still no goal ahead. Some people get lost through this and disappointed and they go completely the other way. The majority, after a week or two mixing with the others, say they have not got it, so it is just one of those things, and they roll back into the routine again. I do not think you would really have a lot of trouble so far as chaps being vindictive about it is concerned.

465. *Dr. Gibbens*: To take the borstal system, it is well known there is one institution where it is a very bad thing to be allocated; in fact I do not think they keep them more than a month there simply because all borstal boys know this institution and they are disappointed by being sent to it. I am only arguing against myself in this. How does one get over this obstacle to flexibility?—*Mr. R.*: With the court sentences at the moment there is no standard. Supposing it is a question of bogus cheques, Mr. P. may go and get

four years for twenty bogus cheques and I may get three years for fifty bogus cheques. That is quite possible and could happen on the same date. We do not resent the difference in the sentence, we accept this because we have come to expect this type of sentencing. If a man in prison comes to expect the inexplicit discharge date, other than within the context of his own progress, this will be the answer, and he will not think in terms of 12th July 1967.

466. *Professor Morris*: I wanted to raise the point that at present there are several hundred vacancies in open prisons, despite overcrowding in other prisons. I do not know whether these figures have changed in the last several weeks. I would like to know the reaction of our witnesses to this, and what suggestions they might have to make. [The witnesses indicated surprise]. These figures are public figures; there is nothing private about these figures.—*Mr. G.*: I can think of a large proportion of men in H. and K. Wing at the present time, particularly for instance those who are unsuccessful on the hostel boards, who would then probably be in the last seven months of their sentences and presumably would be suitable for open prisons and suitable for hostel consideration in the first place, who I am sure would jump at the opportunity to go if it were afforded to them.

467. *Mr. Justice Edmund Davies*: I would like to ask one question on the subject of sentencing policy, because the suggestion is made that all that should be done is for the presiding judge or magistrate to fix the maximum period, and thereafter your flexibility comes into operation. But on page 6 of your memorandum, in the last paragraph under "The variable sentence" you have these two sentences:

"Before any sentence, particularly one involving the liberty of the offender, is decided upon the court must be fully informed of all the available facts. Too often at present the sentence is determined by some incomprehensible equation involving the seriousness of the crime and the offender's previous record".

Could we have some amplification of that? First of all, what available facts which are

relevant to sentence are not placed before the court; and then what about the last sentence about the incomprehensible equation involving the seriousness of the crime and the offender's previous record? I would very much like to have some guidance.—*Mr. R.*: There is considerable resentment amongst prisoners that to some extent, to a very large extent, they are sentenced on their life's crimes, so to speak—all their previous offences are taken into consideration. To some extent this is illogical. If a man, for instance, is a regular burglar, and has four, five, six, even up to twenty convictions; he has had his battles all the time. Many people fight many battles and most of them lose them. We have got to encourage him to win them. If he loses the battle and comes up again the court is concerned about his previous convictions and the offences for which he has been convicted. They are not concerned about the battle that man has fought not to commit that offence. I think this is very important. The court must be aware of the circumstances leading up to the crime. I do not think a man can be dealt with unless this is borne in mind. The past is dead, it is always dead. The only important thing is now and tomorrow; and if you are dealing with this man's tomorrow you can only take such part of his past as is likely to assist you in helping him tomorrow. We reject this concept of punishing a person at all. I think it is ethically unsound for law to be imposed through fear. There is a sound ethical basis, and it must be possible to teach this ethical basis to those who do not understand it. People do not usually break the law because they do not understand what it is about; they break the law because at that particular time they can see no other way of dealing with the problems they have. If the problem which every man has when he resorts to crime is examined by the court, the court can decide, with the assistance of the prison authorities, how long it might take for this man to respond to such training or treatment as is available.

468. *Lady Wootton*: If it is a fair question, I would like to ask if you would have some sympathy with my idea that all

sentences ought to be discussed with the person who is being sentenced? I do not mean he should have the last word; but the idea is that this should not be a pronouncement from on high, except after there has been a face to face talk with the person being sentenced, whoever it is, by whether it is the court or a specialist tribunal. What do you say to that?—I have never heard that suggestion before, and I think it is an admirable one, quite seriously. This is something which should be very seriously considered by all, and I shall certainly give it a lot of thought.—*Mr. G.*: Presumably on the same basis as continental marriages, that there is an interview between both parties to a divorce case before the divorce is granted.

469. There is something like that in court now, where the man has his say before his sentence, but that is all in open court and it is rather formalised. I am trying to get your reaction to the idea that there should be a round table conference of the man, his wife, and certainly his legal representative, with the sentencing authority, after which the sentence would be arrived at?—I think there is a very high proportion of men, and women I believe, who, whilst they are given the opportunity in court to say something for themselves, are intimidated through their inability to express themselves in the surroundings of the court. The result is that they tend to clam up at the vital moment and do not succeed in presenting a very good picture of themselves.—

Mr. P.: I would like to ask a question of Lady Wootton if I may. Are you in fact thinking in terms of a sentencing committee as opposed to an individual judge or magistrate?

470. *Lady Wootton*: That takes us to another hobby horse. I think it is always unfortunate when sentences are imposed by any one person. Therefore I would like to see a system by which sentences were always a matter of discussion between a judge and two assessors, or three magistrates. I am sure the learned judges present will forgive my putting this. So I would say that I think there should be more than one person. But whoever it is, whether it is one person, two or three

people, whether it is a committee or not, the suggestion I was putting to you was that, whatever the sentence involved perhaps there ought to be an informal round table talk before the decision is reached.

471. *Lord Wheatley*: There is one question I wanted to ask arising out of what Mr. R. said. Would the witnesses here accept or reject that there are other considerations than the interests of prisoners to be taken into account in sentencing policy?—*Mr. M.*: Yes, I think we do.—*Mr. B.*: Could I speak on that? Actually we have got a social study group which we run and we have looked into practically all aspects of this. We can appreciate that the public have to be protected from the likes of us if we continue to commit crimes. We are actually considering the meaning of a deterrent now. That we have committed a crime there is no doubt, but if the same man continually commits that crime there must be a reason for it. Surely then it must be more sensible to find out the reason why a man is committing a crime and help to prevent him committing that crime in future, rather than every time he commits the crime just put him in prison for three years, and he comes out and commits the crime and then goes away for four years; that is obviously not doing anybody any good.

472. And you think these other interests should also be represented at this round table conference?—*Mr. G.* Yes I think so.

473. *Chairman*: I wonder if the witnesses would be willing to give us a bit more time after lunch. You might be glad of a chance of discussing over lunch and clearing your thoughts as to what other questions you would like to raise with us.

The Hon. S. Silkin: If they are going to discuss these matters over lunch, Mr. Iremonger asked a very interesting question about half-an-hour ago with regard to the families.

Chairman: I have got it down. We would like to ask you particularly about the impact of all this on the families of the prisoners, the family links.—*Mr. P.*: Could I open after lunch on that?

(*The proceedings were adjourned*)

(Proceedings Resumed)

474. *Chairman:* We should like to follow up a question Mr. Iremonger asked about family links and all that means. I think also I promised Mr. S. the rostrum. Mr. S. will you consider you are free to speak now and then we will follow up this.—*Mr. R.:* Before we start we have had a pre-discussion below and there is something we would like to impress upon the Royal Commission and we would, if possible, like to take a few minutes of your time now to express a point which I think should be borne in mind. We hoped to make it at the very beginning of the proceedings and we would like to make it now if possible.

475. Quite all right.—It is this, that our written evidence is submitted with a view not to plugging the leaky holes in the penal system but to building a new system. It is very difficult for us, having made our recommendations on this basis, to give authoritative answers on a patching up process. We are interested in putting forward the idea of a graded prison set-up, and we feel that this can be done in a constructive way. Now, we have been questioned rather fully on re-adapting the existing set-up to improve it slightly but we feel that the existing set-up is so inadequate and so unfitted for this purpose that it is scarcely worth consideration as a basis of a constructive penal system. We merely feel that the buildings to some extent must be used, and also some of the staff must obviously be used. But we feel it cannot be over emphasised that the man represents a problem, and from the moment he is received until the moment he is back with the community this is something that cannot be broken down into little pieces, it must be dealt with as a whole, and this is the penal problem. It is a very, very big problem and we in our few pages of written evidence have built a skeleton around which must be created something constructive.

When you question us on, say, the welfare of wives or some other particular aspect of imprisonment we do not know whether to answer within the context of the existing set-up or within the context of our proposals, which are rather comprehensive although the thing itself is only

drawn out rather sketchily because we did not have the facilities to put down on paper every detail which would arise. We would ask the Commission to seriously consider that we want to build a new ship, we do not want to patch a leaky vessel and we would like to try and limit—I hate to come here and limit a Royal Commission—but we would like to limit our evidence as much as possible to what can be done by way of a new structure. We can, we hope, help the Commission by telling them something of the problems within the existing set-up but our answers will only be such as to emphasise the need for a new system.

476. I think that is quite all right because we understand the evidence you are giving us orally is in supplementation of your written evidence. That is all right, I think. But you see, we are firing questions at you to try to inform ourselves among other things about the reasons why you have come to the conclusions you have in your written evidence, so I think I can just separate little bits of evidence. If you want to make it perfectly clear when we ask you a particular question, ask us against what background we are asking it. I think we were fairly clear where the answers you gave us fitted in and where they did not fit in to the skeleton scheme you have put down. We have to consider other schemes besides yours. We just want to inform ourselves and pick your brains as well as we can.—I hope our brains are worth picking.

477. May I ask Mr. S. to touch on this point.—*Mr. S.:* Mr. Chairman, Ladies and Gentlemen: I believe that some of this Commission are going to Sweden. It is known here that when a man is sent to prison his wife is actually sent to prison with him, in a manner of speaking, and his family have to adapt themselves to a new way of life without a man in the home. In Sweden they have conjugal visits with their husbands at certain periods. Also—this is from a newspaper cutting—a prisoner after serving ten months of his sentence is allowed 48 hours home leave to be with his wife. This scheme has worked very well in Sweden and it has not been abused by the men themselves. It has been a great success. Surely if that can

work in Sweden it can work in this country, and it is said by the Howard Penal Reform League that the Swedish system is the most progressive in the world. It would save, in this country, a lot of broken homes and children who are left fatherless. As a matter of fact this has happened to me since I have been away under sentence. My wife has made a mistake; she is now too ashamed to even come to face and see me or write to me. I have been away 22 months; I have another 11 months to do. We all make mistakes but some of us are not strong enough to overcome them. Some sentences today are given to men in revenge for past sentences, for a past conviction. They must have their pound of flesh. Surely, ladies and gentlemen, if you are going to Sweden you will come back with some of their ideas and incorporate them into a system in this country. I do not expect it will affect any of us, me and my colleagues here. I hope not to come back to prison again, I am sure we all do. And I do hope, sincerely hope, that when you come back from Sweden you will include this in the system here. Thank you very much.

478. Thank you very much. We shall learn all we can in Sweden of the system they have got there and how much success it has. Now that is really a start for a talk about the family link, I think Mr. S. has led us into that bit. I wonder if you would like to develop and expand a bit on that, to what extent imprisonment is calculated to weaken or destroy links and what can be done about it?—*Mr. B.*: I have served three sentences to date. My present one is a four year; 21-months my first and two-and-a-half years. I was married on my first one and after I served my time everything was all right. It was very strained, which you would expect after a 21 month absence and things were not too easy, it was like starting all over again, you have not really got a common ground. A husband and wife, although you—well, this is rather difficult to put; a marriage consists of two people usually that love each other very much and they have a lot in common. They usually have a lot in common otherwise they do not get married in the first place. When you have got a break of any long length it can only

tend to disrupt the linkage that there is and consequently cause obstacles. Between my first two sentences I think I was out two years, then I received two-and-a-half years. Six months after I had started my wife was, shall we say, missing and I waited until I went out, we talked it over, it was obvious we could not make a success of it and I obtained a divorce on this sentence, but imprisonment did, in fact, break my marriage up, I admit it. I know it is partly my own fault because if I had not gone to prison, done nothing to go, it would not have broken up, but it still proves that not having that close contact with the family does tend to break a family up, which could be saved by some form of contact.

479. *Mr. Justice Edmund Davies*: What form of contact?—I envisage more frequent visits, visits when you have not got an officer sort of looking over your shoulder. In your first six months to start with you do not get an open visit. I did my first 12 months without an open visit.

480. *Chairman*: Could you visualise in your own case a home leave during your time?—Definitely.

481. With safety? I mean you would not have abused that?—No, I think nobody would. I mean you will always get the individual that will abuse anything, it does not matter what you give him. I went out for my divorce, I went out once to Somerset House, I believe it was, to check the Land Registry. Each time I had ample opportunity of going if I had wanted to, and I had only served about a 12 month of my sentence. The average prisoner does not want to go away, what is the good? He cannot go to his home, he cannot go to his family.

482. In your case you think that would have been a good thing if you had had home leave?—I think it would have been a very good thing.

483. Do you think it might have saved your marriage?—I do.—*Mr. S.*: I think it would have saved mine.

484. *Lady Wootton*: What about the alternative thing of having conjugal visits to prison, and by that I mean visits lasting overnight, weekends or something, and in complete privacy?—Yes.

485. What do you say to that?—*Mr. B.*: I would not say in prison because I would not let my wife go there.

486. That is the other side of it.—Too proud. I could envisage something on the lines of a camp—I believe I was talking during dinnertime about it—where you have got plenty of movement inside, everybody moves freely inside but you cannot go outside the wall, like a weekend camp.—*Mr. S.*: I have four young children, I have married a woman a lot younger than myself. When they come to see me the visiting time is extended to half-an-hour, 20 minutes extended to half-an-hour. The time I take to see my children and ask them how they are does not give me and my wife much time to talk. The visits are only once a month and you tend to be forgotten within a few days of your wife leaving you again. Waiting for the next month's visit is such a long time I think that your wife does not see you enough. There are so many temptations put in her way.

487. *Mr. Justice Edmund Davies*: Is Mr. B's view, my Lord Chairman, in response to Lady Wootton's question shared by all the witnesses in relation to conjugal visits in privacy in a prison say once a month? Would you be in favour of that or not?—Yes.

488. You would?—Yes.

489. *Lady Wootton*: In spite of the difficulty about children? A husband and four children. It might be difficult for your wife to come and stay at the weekend with you without leaving the children and that means bringing the children too. It is not as easy as it looks.—No, it is not easy, but usually there are some relations who will look after the children.—*Mr. G.*: This does, of course, apply to a closed prison but with the type of prison which we envisage in the paper this does not disprove the possibility of a visit on a periodic basis whereby the man does not receive his wife and/or children within the prison but does in fact go home to them for the weekend. Such is now the case in prison hospitals. There is, I feel, and I am not married, the added question which is the more practical one that whilst a man is in prison his wife in a large number of

cases is reduced to national assistance which means that she is not only deprived of his presence from the point of view of a husband and probably a father but they are also a financial burden on the Welfare State. In a properly industrialised type of prison where a man could be paid a reasonable wage he would be in a position at the same time to support his wife and his family and this equally would preserve the marriage and prevent it from being a financial drag on the community at large.

490. *Chairman*: I think that is a very good point.—*Mr. S.*: And part of his earnings could go to pay the people from whom he stole, or whatever crime he committed.

491. Have you got any views, Mr. M., on this family link?—*Mr. M.*: Yes, I have. My most important point is the children, you see. My girls come down each month and rather wonder who I am. This is the point which interests me most, that they never forget your face, because in 20 minutes they do not know that you are there.

492. Do they come always?—My wife has never missed a visit.

493. And brings the children?—Never missed a visit.

494. *Lady Wootton*: How old are they?—One is seven and one going on to three.

495. *Chairman*: So your wife is doing all she can to keep the link open and to keep the family together?—Together, yes.

496. She is bringing her children so that they will not forget you?—Yes.

497. *Mr. Millard*: How long were you away on your last visit?—Three years.

—*Mr. G.*: There is an additional point, of course, where any children are concerned, that whilst the popular deception is widely practised, and I think it is possibly a good thing, "Oh, Daddy is not in prison, he is working away", or "in hospital", or something like that, at what stage does the child subsequently become aware of this deception, because at 8, 9 or 10 years old whilst a child may have believed one thing, sooner or later he or she will have noticed that on the outside of the door it says "H.M. Prison" and realise that this is not the case at all; and furthermore becomes aware that a decep-

tion is being practised but is not sufficiently aware of the reason for that deception, so that distrust is created between parents and children.

498. *Chairman*: What do you think about the unmarried, a person who has got a woman with whom he has been living and perhaps children?—A common law wife?

499. Yes.—I think the same facility should be extended.

500. *Lady Wootton*: As in the army?—Yes.

501. The army recognised an unmarried wife?—Yes.—*Mr. B.*: There are many instances. As a matter of fact one of our boarders is in the same position, he has been trying for a divorce for several years and his wife won't let him have a divorce so he is living with a common law wife. This has been going on for several years, his common law wife has had two children by him. It is obvious that it would be no good letting his wife visit him because they are not even on speaking terms, it is a matter of religion why she won't grant him a divorce, and I think it is only reasonable and fair that the common law wife should have the same facilities.

502. *Lord Wheatley*: How early in a sentence of two years, twelve months or upwards, would you suggest that this home leave might start?—*Mr. S.*: The same as in Sweden, at ten months.—*Mr. G.*: Personally I do not think it is possible to just fix an arbitrary period. I think each case must be considered on its merits. Once you fix a deadline it becomes.....

503. I was wondering if there should be a minimum? I am sorry, perhaps I did not express myself properly. Do you think there is a minimum period before which it would not be desirable?—Yes, I think possibly six months.

504. *Mr. Iremonger*: And putting it the other way, if you are going to do this thing the object of which obviously is to maintain the unity between husband and wife and to cause the minimum psychological damage to children, what is the virtue of having any waiting period at all; who are you punishing?—The point is taken.—*Mr. B.*: I can see the point and that is one of my own ideas, but let us say the

whole idea of prison is a punishment as it stands at the moment; we can fully understand that there must be punishment but, as I said before, as long as it is constructive punishment it makes sense, but not a destructive punishment.

505. *Lord Wheatley*: The absurdum of this system is you would not send people to prison at all because it would break up family life. Therefore from the realistic point of view do you accept that there must be a period...—I did explain....

506. During which you are going to include these various things you have outlined in the paper and there would be a minimum period during which there would not be home leave, but after that according to the individual case home leave might then be considered?—Yes, I think in answer to Mr. Iremonger—who said, I believe, why did one fix even an arbitrary period....

507. *Mr. Iremonger*: Yes.—The answer is it would take a little time to determine just exactly what the position of the marriage was. It might not be desirable for either one side or another to meet before a certain period had elapsed. There would inevitably be a certain amount of emotional upheaval on at least one side, possibly both sides, after a conviction.

508. *The Hon. S. Silkin*: As against that would it be a valid point in your view that in some households, possibly the majority of them, I do not know, but certainly some, the sudden and abrupt removal of the breadwinner might put the rest of the family into such an impossible economic position that they would need fairly early on a consultation with the former breadwinner to try and solve the problem?—Yes, but need that necessarily be made in prison?—It could possibly be made through a third party.

509. *Lord Wheatley*: Or does it need to take place during the home leave? It could take place during a normal visit.—Exactly.—*Mr. B.*: I think one of the main troubles is at the start of a sentence you are allowed to receive one letter and send one letter. Now, some chaps would not send one letter a month if they could, but other people can only express themselves in writing whereas they cannot talk

or say anything on a visit. In my own case I have to say such a lot on a visit that when you have a visit you cannot say it, it is all jumbled up, you are there for that 20 minutes, or 30 minutes now, and you cannot say it. I think at the start there should be more facilities for writing, if a man wishes. Everybody I know will be quite willing to pay for their own postage just for the privilege of having a letter.

510. *Chairman*: What are the limitations that you think there should be on correspondence in both directions? I am thinking of the security angle, of censoring and that sort of thing. We would like to hear your views about whether you think the present rules should be relaxed considerably . . .—*Mr. S.*: When you are on appeal you can write a letter every day and have a visit every day. Surely if that amount of people can have a letter and a visit every day it would not be much hardship to let the rest of the men.

511. Can you see any disadvantages that would arise if people were allowed to write and to receive as many letters as they liked?—The prison staff would be in an upheaval of course.

512. Owing to censoring?—Yes.

513. And do you see the point of censoring; do you agree that censoring is necessary?—Not in most cases. It is only since special security has been around certain prisons owing to the train robbers being allotted to them, that there is more security put on different prisons, that is all. That is the only trouble.

514. *Lady Wootton*: *Mr. S.*: some people, let us be fair, do write abusive, offensive, indecent letters to people who do not wish to receive them. We do know that this happens, and people might write letters planning escapes, making the arrangements. Is not the censorship a check to see that that sort of thing does not happen, because people do do these things.—Yes, they do.—*Mr. G.*: If an escape is being planned it can be just as easily planned on a visit.

515. But this does not deal with the question of offensive letters.—*Mr. B.*: We can fully understand that letters need not be censored but for those few that would

take advantage of the fact, but even though they need to be censored the average prison officer after you have been there for a week knows you are writing to your wife, he knows it is "I hope the baby is all right", and he knows you are not going to write "Bring me a rope ladder in your pocket next time you come".—*Mr. G.*: Whilst I feel some form of censorship is essential, if not desirable, I do not feel that in the majority of cases it is necessary to censor every letter. If the threat were always there that any letter may be opened at any time the position would probably be that one in every five or six letters would be opened, so one would never know just whether that particular one would be opened or not.

516. *Chairman*: Sampling?—Precisely, yes. The other point I would like to make is this, that H. and K. Wings are a very closely knit community. There are normally about 150 men present. In a community as close as that everybody knows everybody else, every prison officer who serves within the wings knows everybody else, and the censoring is invariably done by one man. I think it is wrong that the censoring should be done by a man who knows the man who is writing the letter. I think it should be done by somebody who is totally divorced from any personal acquaintance with the man, if necessary by a civilian who is employed within the walls specifically for that purpose.

517. *Mr. Iremonger*: If I can come in on that, the same thought was going through my mind, *Mr. G.* has refreshed it to some extent. Obviously the object of more facilities for writing letters is to enable a prisoner to maintain a emotional relationship which otherwise might be lost, and I think one has got to recognise quite frankly that that applies only to a very small minority, although a very important minority, of prisoners because on the whole I think most men are inarticulate and unpractised in expressing themselves on paper.—Yes.

518. But if that is the object, would it not be better to have some administrative arrangement, cutting censors off completely from the people who were known

to them. I have had letters censored as a rating in the lower deck of the Navy, and I have censored letters myself as an officer, and the arrangement that always seemed to me best was that wherever possible letters were swapped between ships.—That is my point, yes.

519. And I always found it extremely offensive to read letters written by ratings under my command, it was difficult to avoid seeing what was said, but I did get two impressions; one that very few people put much into letters, and the other was that it was very difficult for people to censor letters by men they had to meet every day.—Exactly.

520. Would it really be right to say that on the whole censorship depends on divorcing knowledge of who is writing and whether you know the man or not?—Yes.

521. *The Hon. S. Silkin:* I share Mr. Ironmonger's experience though not in the Navy, but we have had a view expressed to us on an earlier occasion that there is a valuable feature in the censorship in the chap who is in contact with a prisoner being enabled by this method to discover the problems which the chap himself may be too inarticulate to mention in person. I would like to have your view on that.—I do not think that is a very valid comment because if censoring were done by somebody who was unacquainted with the particular man, and if he saw a problem there, it would strike him just as forcibly as it would somebody who was acquainted with the man in question. The problem could always be passed on to somebody better fitted to deal with it subsequently.

522. I think the point, to be fair to the people who made it, was slightly different from that. I think what they were suggesting was it might be visible to the prison officer who was dealing with the man that there was something the matter, something amiss, simply from daily contact, but he had no idea what, and when censoring the letter he discovers that there is a bust-up between him and his wife, or something of that kind, and then he can deal with it. That was the point I think that was made. Do you think there is any validity in it?—I do not think so at all.

523. *Chairman:* Could we follow that up by asking whether that motive would be in your opinion (a) justifiable and (b) desirable, in other words that the person should read the letter with a view to being able to help the writer, by knowing what the state of his relationships was?—I think it is a rather difficult question because whereas one man may be pleased at somebody trying to do something about it, another man may resent it and say: "Well it is none of your business if you read my letter and discovered this. If I wanted you to do something about it I would have approached you in the first place".

524. Yes, I wondered what your view would have been.—I think that is the way I personally would react to it.—*Mr. S.:* There is the welfare attached to any prison and if we want to go there we can do.—*Mr. G.:* There is an interesting sidelight on that. Although as Mr. S. has said we have an official welfare department, we also have an unofficial welfare department within the R.A. Fellowship, and you would be quite surprised at the number of people who prefer to come to one of us rather than the welfare authorities.

525. *Dr. Gibbens:* On the other hand you might think that prison visitors coming in and talking to a man for one hour, might better spend their time censoring a hundred letters for a hundred prisoners. Has any step ever been taken to see whether the W.V.S. could help. Those are perfectly respectable characters who might be approved for censoring and transmitting letters. Has any service ever offered to do this?—I doubt very much whether it would be permitted under the existing framework of the regulations.

526. A prison visitor has to be an accredited reliable person before he is allowed in the prison?—Yes.

527. *The Hon. S. Silkin:* Is not it really part and parcel of your whole approach, the flexible approach which would come after a much shorter period than now, with a much higher degree of freedom that the whole need for censorship would necessarily be reduced considerably?—If you are going to give a man a lot more freedom in other ways there does not seem an awful lot of point as far as I can

see at the moment in accompanying that with the strict security involved in censorship.—Whilst he has any form of restricted liberty, that is to say early in the form of sentence which we visualise, then partial censorship, as I referred to it just now, could be imposed. As and when he removes from restriction during his sentence, his progressive sentence, so censorship could be one of those things which could be relaxed at a later stage.

528. *Chairman*: Yes, it would go with other restrictions?—Precisely. As the others were removed so that would be removed with it.

529. *Mrs. Warburton*: Do you think we could go into alternatives to imprisonment in the remainder of our time? They have put up a lot of suggestions for alternatives to imprisonment.—There is one point I would like to make before we leave the prisons. It does not have any bearing on what we said before but it does have a bearing on imprisonment, and that is the educational facilities within the prison and the employment of them. I believe you have—I think I read it in "The Times"—entertained Mr. Vickers of the Prison Teachers' Association, or whatever they call themselves. There are certain facilities available. The standard of them is very much open to criticism and, furthermore, there may be a few courses which people would like to undertake which of necessity have a certain amount of practical work attached to them which could not be done within the prison walls. Chemistry or physics, for instance, might necessitate a man travelling outside the prison in order to do his practical work at an educational establishment outside the walls. At the moment I believe I am right in saying that is almost totally non-existent. If I may refer to Maidstone—I referred to it this morning—I was there while Mr. Vickers was there and there were only two instances during the eighteen months I was at Maidstone where people were permitted to go outside to do practical work. I think this is something which needs a very great review. The quality of instruction within the walls is not particularly high in a number of cases. In fact although correspondence courses are not the ideal form of instruction, under present facilities in the

majority of cases they afford far better opportunity to a man who wishes to study in a particular subject than the occasional instruction which is available from teachers coming in.—*Mr. R.*: I do not think that if a man chooses to study something in prison, it must necessarily have some bearing on his future outside prison, that is to say it must not be limited to carpentry or plumbing or whatever it may be. If he wants to study Roman history or something like that it would be a tremendous widening of the mind for that man and would do him a power of good not in the physical sense but in the psychological and every other sense it would help him greatly. There are courses available but they might be greatly widened to include any academic subject. If the man wants to study Italian or Greek history or anything else, he should be permitted to do so.

530. *Professor Morris*: Is there any great demand at present for education? What is the experience of our witnesses?—

Mr. G.: I think there is a very great demand for it. There must always be the man in the closed prison such as Wandsworth—this does not so much apply to H. and K. where there is that much more freedom, but in the main part of the prison there must always be the man who visits various evening classes for one purpose and one purpose only, he wants to get out of his cell for the evening. But against that there is a very high proportion who do it from a legitimate desire to further their knowledge, and I feel there would be an increase probably if the quality of the instruction and the extent of the variety were increased.

531. Are demands at present being made to the Tutor Organiser?—Constantly, but he again is limited by the funds at his disposal.

532. Are there any examples?—*Mr. B.*: I have been with the art class ever since I have been in prison and we have dropped steadily from sixteen tubes to eight, then to seven tubes, and now you are lucky if you get seven tubes of paint. It is a continual bickering for paper and everything else now. If someone wishes to do anything that is creative it must be doing them some good and I think it should be encouraged.

533. Has this complaint been made to the welfare officer?—Yes, and I think several people have put in complaints. The governor refers you to the tutor organiser, and the tutor organiser to the governor, and you are where you started.

534. What about the assistant governor?—The assistant governor passes you to the governor, and the governor passes you back to the tutor organiser, and you are stuck in the middle, sort of thing.

535. *Mr. Millard*: I wonder if we might follow up another point which was raised with us by the tutor organisers. One is interested to note the views of the witnesses on the role of education in prison in its wider context, because it was put to us that education in its widest sense had a very large part to play in rehabilitation and, if I may use a word which has not been used this morning, the reformatory side of prison treatment. I wonder what the views of our witnesses would be on that aspect of it, that is, not merely academic study for its own sake but playing a very major part in rehabilitating and reforming those undertaking it?—I think there are probably a large number of people who have come to prison in the first instance because they have never been taught a trade, they have never had a profession, they have never acquired any sort of qualification at all in any particular sphere. I would not like to go into the reasons for this because I do not know them. I would merely be speculating, but if the facilities were available a large number of people would find it possible to acquire some sort of qualification, whether it be academic or professional, or whatever sphere it might fall into, which upon discharge would enable them not only to get a job more quickly but an even better one than they had before.

536. I really meant it in the rather wider sense. Do you feel that the education service is or could be used as a means of establishing a new set of values in the broadest sense which in turn would lead to a new approach and reformation of the prisoner on his return to ordinary life? This is a point which was put to us as being something which could be achieved.—I think so, yes, because when a man

begins to study something, whatever it is, he has to think, and it may well be that he is thinking for the first time in his life, and if he thinks then he must automatically review his own sense of values and in so doing he may well acquire a different set.

537. *Lady Adrian*: That is to say a by-product of instruction either in an academic or specialist subject?—Precisely. The real reason—I think I am right in saying this (*Mr. R.* will bear me out) the whole purpose of the H. groups as we had them in H. and K. was to make people think. Is not that so?—*Mr. R.*: Yes, I think the H. groups when they were held in H. and K. succeeded in doing that, because I was group reader—I do not know if the Commission are aware of the set-up of H. and K. It was about a year ago, the men met in voluntary groups which were formed round a reader, he was not a leader, he was a reader because he had a handbook which we used as a guide. It was extraordinary the way people who were otherwise inarticulate and non-thinking in the wider sense of the term could suddenly start thinking and expressing their views without fear of criticism before these small groups and through group discussion we found that we all, not them, we, all became well aware of what this was all about. When this was suppressed in H. and K. we took it as a personal affront. We fought for the retention of this system because we thought it did a lot of good.

538. *Chairman*: Was that group discussion or was it group . . .—No, it was group discussion. The men themselves formed the groups. They chose the night on which they would meet. They could meet once a week, later twice a week. The meetings could last, within certain limitations, as long as the conversation lasted. We found that these were serving a useful purpose.

539. Would it have been a series of meetings on one subject or would a subject be thrown up?—We had a handbook, Sir. I could have the Commission sent a copy of this handbook if they think it might be helpful.

540. Yes, most of them have read it.—We found that this was a basis for discussion and the group reader's job was

simply to open the discussion at some point in the handbook. You could stray from there over anything in the discussion, and indeed the discussions rather inclined to stray, but the reader's responsibility was merely to keep them to some bearing on the situation. I mean you can start off talking about, shall we say, a chapter on personality, which is one of those subjects which is very, very difficult to understand unless you study the whole thing, and you could drift off into instances which led you somewhere else, but the original subject was always there, that is what you were talking about and that is what you were going to talk about, until someone eventually formally moved on to something equally serious; and, of course, that is something which was thoroughly disapproved of. Like the Carle Rogers group system I think this is something that should be administered by psychiatrists or psychologists. It is presently administered by the prison officers, and of course the whole atmosphere is wrong when the prison officer comes in and says: "What are we going to talk about?" and someone says: "Let's talk about the football match last night". We thought these H. groups served a useful purpose, they brought a lot of men out of themselves, they started men thinking, and a lot of men realised that they had been, shall we say, seriously socially under-developed until they started thinking along those lines. It is not the final answer but it is one of the most useful to us. It had a profound effect on very many people and the profound effect it has had on most people is still obvious many months and in some cases years after they have left prison.

541. Those people it had a profound effect on, were they what you might call fairly ordinary people or . . .—May I give one example. There was a man in prison, an old man, and I believe he was serving his second sentence. On his first sentence he was sentenced, I believe, to three years of which he did three years and three months, so incorrigible was he. He received corporal punishment and everything happened to him that could happen. He came eventually to H. and K. on a second sentence which was almost consecutive, got involved in this group handbook and

did not look back from that moment. Not only did he understand it quite quickly but he was able to approach it equally quickly, and I had a letter from him the other day and everything in the garden is rosy, and he is one bloke at the outset you would not have given an earthly to.

542. *Lady Wootton*: Could I just ask how long R.A. has been going?—Roughly about five or six years.

543. *Chairman*: 1963, is not it?—*Mr. P.*: End of 1961. It has grown from merely an idea.

544. *Lady Wootton*: Would you say effectively 1961 or 1962?—Effectively 1961 or 1962.

545. *Lord Wheatley*: On this question of education I would like to get the views of the witnesses, not perhaps so much subjectively as objectively, looking at the scene as a whole and the inter-relation of work and education in the present régime. Page 10 of the memorandum starts off:

"The opportunity to engage in satisfying work will erase one of the more undignified aspects of the existing system".

But then it goes on to say:

"It must be made clear however that the work aspect of imprisonment at this stage must be secondary to the programme of social education, and the demands of the latter must have absolute priority. Where necessary academic education should also be available".

Now, from their experience, and looking at it objectively rather than subjectively, how do they see this fitting in to the organisation of work in prison and, secondly, what would be the reaction of prisoners to such a régime if a new approach to pay were introduced?

Chairman: By "new approach" you mean considerably higher. . . .

Lord Wheatley: Yes, rather than just this so-called pocket money.

Chairman: Would there be a conflict between the desire to earn the maximum amount of pay and the desire to avail themselves of social education?—*Mr. R.*: We had something definite in mind when we wrote this and the point we

wanted to make was that we must attend to the man's mind first. When we have his mind in a reasonably sound state we can then introduce him to serious work at stage 3. At stage 2 we envisage a closed industrial prison but social education will have priority. In the next stage it is an open industrial prison where the people if they are not working in a factory outside will be working under conditions similar to those in a factory outside, and where they will be expected to produce a reasonable amount of work. At both stages they will be paid, but the pay would have to be limited at the early stage—sort of basic rather than piecework all the time, pay them £8 a week for doing something, and £10 a week for doing something else, if that is the rate. But at the next stage they get paid like the man outside and work 12 hours a day if they want to earn the money. The emphasis, as Mr. P. said, changes between stage 2 and stage 3 but the mind must be attended to first.

546. *Mr. Millard*: Coming on to this matter of the mind, one perhaps tends to detect in this document an emphasis on the personal interests of the inmate. Would it be fair to say that underlying it all is also an interest of the community in that you would hope from your system that the inmates would be much less likely to come back again?—Exactly.

Mr. P.: This brings us back to the last point reached just before lunch. Some doubt was cast on whether in fact we had forgotten the community at large. This is not the case. The simple answer here is to look at the past. A man has gone to prison for 12 months, then for 18 months, and then two years. Each time he becomes a greater menace. By the time the man has been in prison three times and he comes out he is 10 times the menace to society that he was when he was first sent to prison for 12 months. If something constructive had been done along such lines as we suggest as a possible means of doing it, this real menace to society might not arise, and we are therefore thinking in terms of society in addition to the individual inmate.

547. *Lady Wootton*: What Mr. P. said is very much present to the minds of all of us. The figures show that the more penal

treatment you get the more likely you are to come back for more. This is merely a statistical fact. There is one question I would like very much to ask our witnesses, and I do not wish this to be interpreted in any personal sense. You represent a body of recidivists, Recidivists Anonymous, therefore these are people who have offended not once but anyhow more than once. I would very much like to have your views on what are the factors you would say are important in the second phase. I think this is a thing that puzzles people who administer justice very much indeed. Nearly everybody commits a first offence, I dare say, on both sides of this table. First offences are very common. Some people get picked up and dealt with, possibly quite leniently in the first instance, a great many of them never turn up again, a certain proportion of them come back. I think at the moment we are quite unable to distinguish who is going to come back and who is not, at least most of us are. I would like to know whether you think that a man comes into the category of the recidivists mainly because of the difficulties in his way that result from his first conviction, it gets known and jobs are difficult and so on or whether you think it is due to some inherent failure to be adjusted to society, something like a delayed growing up, an immaturity, or what? Can you help us to distinguish why it is that a lot of people appear once and settle down, and a certain percentage whom we cannot identify turn up in your recidivists organisation?—*Mr. R.*: I think this is not too difficult a question, Lady Wootton.

548. I shall be glad to hear the answer. —When one runs through the mill, that is to say you are arrested, the police have turned over your flat, or your house or wherever you live, you have been through the local court and sent for trial, and the local paper has given you a bit of treatment, and you are eventually sent to prison, you have suffered everything the State can throw at you short of hanging you. There is nothing you do not know about or have not experienced at that stage. The fear of prison is the fear of the unknown for those who have not been there. Once you have been there the fear of prison is considerably diminished.

549. Perhaps we ought to make prison worse then.—At one time it was and the answer was even worse. But once the fear of prison has gone and at the same time that man's standing within the community is that the neighbours know he is a rogue, it is not a great step to commit another offence, it is only expected of him. People do not say: "How could you?", they say: "I thought you would", and there is not great fear of going behind those gloomy walls because you have been there before and you have survived it.

550. *Lady Adrian*: But this does not answer why 80 per cent do not?—The 80 per cent that do not go back, these are the first offenders, a lot of these people...

551. *Lady Wootton*: Not necessarily first offenders. First imprisonment, not quite the same thing.—The difference, shall we say, in the return figures from Wormwood Scrubs and Wandsworth Prison. This is, of course, partly answered, a man goes through this experience, when he comes out he can grapple with the problems and there are very real problems, to make sure he does not have to overcome those problems again, that is to say the problem of getting back into the community. But if he fails, and he has failed before he is failing the second time if he has been in Wandsworth he sees no point in trying because he has proved to himself it cannot be done by him.—*Mr. P.*: Moral fibre.—*Mr. G.*: Until very recently the machinery which existed for helping a man when he came out of prison was inadequate beyond belief. I was concerned in a survey into this not so many years ago and the sort of thing that happened was that a man left prison with no money of his own, he was given 3s. 6d. at the gate plus a letter to the Labour Exchange. I verified these facts myself together with a colleague I was working with. He went to the Labour Exchange and when he got there, if he did, the man at the Labour Exchange said: "Well, I am afraid you cannot draw financial benefit because you have not got any stamps on your national insurance card, so I will refer you to the National Assistance Bureau". So he went to the National Assistance Bureau and the chap

said: "Yes, as soon as you have got somewhere to live we will pay your rent until you get a job", and the chap said: "That's fine but I have not got any money. How can I get somewhere to live?" They said: "We will pay you something as soon as you get somewhere to live. You tell your landlord the National Assistance Board will pay the rent". I am quite sure there are a number of magnanimous landlords and landladies about but there must be a large proportion who when confronted by a man or woman who says: "It's all right, the National Assistance Board will pay my rent" will be a little chary about taking them in. The result was a vicious circle. The man had no address and could not get any money, and could not get any money until he had an address.

552. *Lady Wootton*: We have got two answers. One is an alternative. Mr. P. said moral fibre, and Mr. G. said the difficulties that society puts in your way.

553. *Mr. Justice Edmund Davies*: They may both be true.—I think they are inter-related.—*Mr. P.*: May I add to this two words, that despite the Commission's attempt to answer the question I doubt if anybody round this table could. Opinions differ and I do not think any specific answer can be given to that question at all. If we knew the answer the problem would not be here.

554. *Lady Wootton*: I understood Mr. R. said it was easy.—*Mr. R.*: I do not look upon it as a terrible problem. I very much doubt the accuracy of these figures inasmuch as they include what we call the seven-day drunk, etc., who has a discharge five or six times a year for that. He is part of the statistics and I would be better prepared to look at figures which only included sentences of two years or over or something like that.

555. *Mr. Millard*: If you find it so difficult to answer the problem, what ground have you for thinking that your new régime is less likely to result in men returning to prison than the present régime?—*Mr. B.*: Experience only; personal experience.

556. You mean that the enlightened atmosphere of your organisation plus H. and K. has a better success rate than

the average?—*Mr. G.*: I think it does, yes.—*Mr. B.*: I should say it does.

557. *Lady Wootton*: It is very important, this. It is crucial. Could you get the figures?—*Mr. G.*: Yes, I think we could.

558. It is absolutely crucial to your case.—I have been told by people who are in a position to know that since the H. and K. scheme began the proportion of people returning to prison who have been through H. and K. is much lower than the same number of people who have been discharged from the main part of the prison.

559. *Lady Wootton*: Could you get that put in for us, my Lord Chairman?

Chairman: It would be very important.—I will try and get the exact figures.

560. *The Hon. S. Silkin*: Are there any figures which you could produce which would help us to decide whether the régime which you propose in your paper would be more likely to succeed than some other one?

Mr. Justice Edmund Davies: He cannot do that.

561. *Lady Adrian*: Can I put in a plea that there may not yet be enough people who have passed through H. and K. . . .—I think so.

562. But I think you should conduct a continuing exercise of producing figures, because the larger your figures the more convincing it would be?—Yes, but we can do that over the period of five years.

563. Yes, you can, but do it again over a period of ten years. Do not let it drop. It is extremely important.—*Mr. R.*: Statistically the figures from H. and K. would mean nothing in comparison with the figures for the whole country. Had this been set up properly—and I am speaking to Mr. Alexander, he is closer to the frontier—with a similar, or shall I say a non-similar prison, that is to say an ordinary prison where the same type of people were sent and in the same numbers, one group would be "behind the wall" so to speak, and the other would be in H. and K. then the statistics would have some meaning. But to produce statistics on

H. and K. in isolation or in comparison with the country as a whole would mean absolutely nothing and it would be wasting the Commission's time to consider them.

564. *Lady Wootton*: Your experiment would be the real answer but it would be something to show that the H. and K. people did not have a worse record.—I have enquired into this. There is no way you can find out how many men who have been through H. and K. have come back. This is the answer we received from the Home Office.

565. *Mr. Iremonger*: I do not know whether it is true or fair but it might be as well to voice it now, that as regards the H. and K. Wing in Wandsworth there are many people, some of them not entirely without influence, who are immensely moved and inspired by it and regard it as very hopeful, but I have always found—this is only an impression in the back of my mind—that just somewhere, somehow, there is a subtle effort to boom you off this, and somehow it drops like a stone. I do not know how just or unjust that is but we are here examining something which I have never found the official exponents of penal policy have been too keen to tell you.—I think the answer is that H. and K. started off on one track and changed course. It started off under the guise of the principles of Hauser and some well-meaning people in the Home Office decided to improve on this and H. and K. as it is now is very, very different to the H. and K. that was 18 months ago.

Mr. Iremonger: May be.

566. *The Hon. S. Silkin*: But it is also true, surely, that you are selling us here something that goes far beyond H. and K.; that is the point I was seeking to make earlier?—I think H. and K. at one time could have been used as a stepping stone to our suggestion but at the moment I do not really think H. and K. is much more than a rather better place to do your bird than in the main prison.

567. *Mr. Justice Edmund Davies*: You say that the sort of blueprint of Hauser is not any longer being followed?—No, I am afraid Hauser's name is a dirty word.—*Mr. G.*: During the period he spent

in the wings, although I was not there, I think it is true to say he threw up so much that was highly questionable that they quietly shooed him out of the back-door.

568. *Chairman*: Do you regret that?—*I think everybody regrets it.*

569. *Professor Morris*: I did not understand what you meant by . . .—He revealed so much that was entirely wrong in the whole set-up, not just in prisons as a whole but in H. and K. in particular, and his recommendations, if you like—Mr. R. can bear me out more on this because he was there and I was not—his recommendations were too far-reaching for many to grasp at that particular time. Is not that so?—*Mr. R.*: That is true.

570. *Mr. Iremonger*: They were a reflection on those who ought to have thought of them before?—*Mr. G.*: In other words, nobody likes to be told how to run his own business.—*Mr. B.*: I have been out there roughly 14 months and when I started there we still had the H. groups going and they were very successful and there was a much better atmosphere about the chaps themselves, it was encouraging them to do something with themselves. But now they have stopped the H. groups and have got the Officers' groups to replace them which are compulsory, everybody moans at them because they have been forced to do it. It is not so much being forced to do a thing, but when the officers came in voluntarily, we had about five officers attending H. groups and helping out, as soon as they are paid for it we have got about 145, and everybody can see that. The officers who come in say to us—half the time they are not interested in H. and K., and the same officer has come in to take . . .—*Mr. S.*: They come in just because they are paid extra for it.

571. *Mr. Justice Edmund Davies*: Could we be told how that is reflected? You say you have got different personnel, no longer coming out of inspiration and interest but because of the money. How does that find itself reflected in the way H. and K. are being run as opposed to what one might call, not the past, but the Hauser days?—*Mr. B.*: They see it

as a farce and because it is a farce a lot of them treat the whole thing as a farce and

572. How is it reflected?—*Mr. G.*: I think this goes back a stage further. I was saying to someone during lunch that there is now a policy in existence whereby men are creamed off from the general scheme early in their sentences, within three weeks of arrival. These men are men with not bad records, they go to places like Chelmsford, Camp Hill and so on and these are the men who two years ago would have formed the backbone of H. and K. The result is that the people now coming into H. and K. are of lower standard and I do not necessarily mean in any one particular sphere; more I mean collectively are of a lower standard than was the case two years ago. The result is that whereas two years ago people were capable of providing things for themselves, within the clubs, for instance, they lack a certain amount of ingenuity, a certain amount of initiative, things have to be laid on for them. In another context you might say they were television addicts rather than performers. This is reflected throughout the whole of H. and K. from the point of view of the staff, which is your question now. Two or three years ago staff would come in voluntarily because they were genuinely interested. Now it means another thirty bob a week for talking about last night's dog track or last Saturday's football match for half-an-hour. Inevitably when it starts at the top from the man who is supposed to be conducting the group it spreads throughout that particular group, it spreads through the associated groups and inevitably it spreads throughout H. and K. as a whole. The lead comes from the top, the slump down comes from the top.—*Mr. R.*: If I may ask Mr. G. a question, when Mr. P. and I were in our last session in H. and K. we had great difficulty in finding the leader who would do the jobs, they were being done by men about to be discharged, and I would say that situation now was almost intolerable. The stream has left H. and K. without one leader and there are no natural leaders amongst this group to lead the men through these channels and educate.

573. *Lady Adrian*: May I take it you do not want to have a highly selected group for H. and K.?—*Mr. G.*: No.

574. You want to have an overall cross-section at all levels?—What happens now is that in order to keep H. and K. fully stocked men are being sent over from the main prison who two years ago would never have been considered. The result is the overall level is dropping the whole time.

575. *Mr. Millard*: I suppose Mr. G. and Mr. R. realise that what they are advocating is there should be an element of cream in H. and K. and this is the exact antithesis of the segregation which is proposed in their blueprint for a new scheme where all the cream would be separated from the lower stratum from the very first, would it not?—*Mr. P.*: Might I chip in, please, My Lord Chairman? This is presuming, or assuming, shall we say, that H. and K. is essentially a part of what we are suggesting. The ideas on which our suggestions are based have been learned through what has come from H. and K., but to go back to the suggestion for a skeleton structure, no, we adhere to the principle of segregation. You cannot mix the cream, as you like to call it, with those who are totally inadequate and of which some go on and some go back. We must hold firm to that principle. But we have come away from the subject, we are talking essentially about H. and K. at the moment, as it is and as it was. There was no question in this situation of people leaving earlier than anybody else, the situation did not arise, so the question is based upon a false premise, I would suggest. We are looking at a situation where a reactionary group in the authority at Wandsworth saw prisoners with a certain amount of initiative being given a certain amount of scope and they did not like it. In the shape of the Prison Officers Association they moved in. They have taken the thing over, they want to feel that they are in control. I am not saying that this is unnatural or not to be expected from human nature. This is what has happened. Hauser is a rude word. Hauser made himself very unpopular at Wandsworth

when he was there because he told them a lot of home truths.

576. *Dr. Gibbens*: Is not this the essence of the problem, that the staff, and the treatment of the staff, who are after all just as much prisoners as you are—half the problem, this is the essential dilemma, is that they have felt threatened by it?—

Mr. P.: This is a very unfortunate situation and it goes back to the staff. I feel convinced that if the staff had been given more encouragement when Hauser was there perhaps Hauser was a bit too blunt with them, he is a very blunt man, they would not have seen themselves being left out in the cold, which undoubtedly a lot of them were. This was pure bad administration and you can put your finger on a number of points where things went wrong, but the whole thing stems from a fear of too much initiative and scope being given to the inmates, and of course reaction came, and we are now faced with a picture house, so I believe, which is all it is really, and what are known as officer groups.—

Mr. R.: I think you should make it clear that when you referred to the Prison Officers Association you are referring to the Wandsworth Branch.—*Mr. P.*: Yes, I should have made that clear.—

Mr. R.: Not the National Association.—*Mr. P.*: No, because the Prison Officers Association at Wandsworth is very reactionary indeed.

577. *Chairman*: You have given us a good description of H. and K., I think, and if you find any statistics that you think would be useful to us, send them to us with a note as to the limitations that we should attach to them the qualifications you want to make. We on our side through the Home Office will see if we can get any useful statistics on this. I think we should like to draw this thing to an end fairly quickly. Before we do close down are there any other questions any of my colleagues would like to ask our visitors?

578. *The Hon. S. Silkin*: There was one question, one observation, Mr. R. made in reply to Lady Wootton which I did want to follow up but we got on to H. and K. I rather gathered he will correct me if I have got him wrong—that he was saying in relation to the question of

individual deterrence, deterring the person himself, that in his view whilst the prospect of the first dose of imprisonment may be a deterrent, once that has been suffered either the prospect of further imprisonment ceases altogether to be a deterrent, or at any rate it is a rapidly diminishing deterrent. Does that fairly summarise—*Mr. R.*: I not only mentioned prison but I mentioned the rest of the social taboo, the rejection by society to some extent, and the ultimate imprisonment, newspaper publicity, the whole set-up.

579. *The Hon. S. Silkin*: Prison and what is associated with it. What I really wanted to know is whether that is the general view of

Chairman: I think it is an important point.

—I think, as far as I know

580. We mean the whole thing, the sentence, the conviction, the publicity, the break in relations, the whole effect on the first occasion, is it very much greater than on subsequent occasions; is it a diminishing deterrent, as it were?—*Yes, it is.*

581. *Lady Wootton*: I wonder if I might raise something in that context My Lord Chairman, which interests me very much. If we went back 30 to 40 years, virtually the only people who would have been brought to court on criminal charges and sentenced, not necessarily to prison but it could have been fines or probation, would have been people who had committed what are generally called crimes, the great bulk of which would have been stealing or breaking. But today well over half, about 60 per cent, of all the offences that are heard in magistrates' courts are motoring offences. It is true that it has to be a very serious offence for a motorist to be sent to prison. It is very common for a first offender who steals nowadays to be fined or sometimes conditionally discharged; it is very common for a fine to be imposed, indeed there are restrictions on sentencing first offenders to prison, as you know. Equally it is clear that the probable effect of the first motoring offence is a fine if it is an offence like careless driving it could be a fine comparable to what you would get

for a not very big theft. In the second case of the motoring offence the process of being brought to court, tried, sentenced, appears to have no deterrent effect whatever. In the second case of what used to be called crime, of stealing, you say it carries a certain social stigma even if you are not sent to prison. Can you throw any light on why this stigma operates in one case and not in other cases? This I think is the key to a great deal in our social behaviour.—It is a matter of social attitudes. We condemn the drunken driver and so on but how seriously do we condemn and how honestly do we condemn? We do not look upon him as a person, we look upon him as a statistic or something of that nature. It is not a social offence, you do not have to resign from your club if you are convicted of being drunk in charge of your car.

582. I am asking if you can explain the difference in attitude. It is obvious there is this difference. Can you explain it?—

Mr. P.: The public have not yet been educated to the idea that it is in fact a crime to drive your motor car when you are drunk or go over a small girl.

583. Is not it the key to a good deal? The point I am really trying to put to you is that the deterrent is not, as perhaps we have been thinking, the process of judicial procedure and a mild sentence, that a mild sentence is no deterrent at all, the deterrent is the stigma and the stigma lies not in the court's process at all but in some much more fundamental social attitude? Would you agree?—*Mr. R.*: The court process gives the stigma some point in fact. It is there, it has happened.

Lady Wootton: But it only gives it in some instances, it does not give it in the motoring case—not comparable.

584. *The Hon. S. Silkin*: Is that true of a prison sentence, do you think? Do you think there is any less stigma on the man who comes out of prison having served a prison sentence for being drunk in charge than on one who has served the same sentence for stealing?—*Mr. B.*: Definitely.—*Mr. G.*: I think a man who has served a prison sentence even for manslaughter whilst being drunk in charge just does not regard himself as a criminal.

585. Do other people?—*Mr. B.*: The average person outside does not. It shows a lack of social age outside.—*Mr. G.*: "He did not do something wrong, he just knocked someone down".

586. *Chairman*: I do not think the recidivists can help us on this particular point any more than we can help ourselves. We can ask ourselves these questions.—We can, as a matter of fact, because I was working with somebody a few months ago who was serving I think his fourth sentence but the other three were all for motoring offences. I was talking to him one day and he mentioned during the course of conversation: "This is my fourth prison sentence but the others didn't count, they were just for motoring offences".—*Mr. P.*: My Lord Chairman, I know you are going to close but we had rather hoped we might be able to talk about bail, remand in custody, procedure on arrest, in other words the beginning of the story. This is obviously not possible but we have said something in the paper, as you will see. I would suggest, and I am sure the others will agree with me, that if you would like to hear more on this subject than we have said in the paper we would be only too happy perhaps to add to what we have said in writing, if you feel you would like us to say more, because this is a subject about which a good deal could and should be said.

587. I am quite sure I am expressing the views of my colleagues when I say that if there is anything you would like to supplement in a written form, to the written evidence you have already given to us, we shall be delighted to have that. We shall be discussing this evidence you have given us today and for our part if there is anything more we would like we shall not hesitate to get in touch with you and ask you for it either in the form of written or further oral evidence. In the meantime if there is anything more you would like to say, bearing on these subjects particularly that we have not discussed, or even the ones we have discussed, do not hesitate to send it in to us.—*Mr. S.*: Has this Commission thought of extending the hostel scheme as it stands at the moment?

Only one in a hundred can ever hope to get in.

588. It is too early for us to say what we intend to put in our report yet.—If you know the Home Office views. . . .

589. We have more views and information to receive.—At the moment there are 12 in the hostel scheme at Wandsworth. They serve the last six months of their sentence on that scheme. After having been on it for three months with good records and having done their work well, surely they should be put on parole and make more room in the hostel for others to come into it; and building more hostels extending more, double the amount could be used.

590. Quicker turnover.—Yes.

Chairman: It is one of the issues.

591. *Mr. Justice Edmund Davies*: If one might say so, My Lord Chairman, that is really something that Mr. Silkin and I want to take on our shoulders at once.

Chairman: The whole plan of hostels and parole are essential to our study.—But nothing seems to be getting done.

592. With us it is talk, of course.—*Mr. B.*: The point was raised earlier on about the chaps being willing to earn less money to gain an educational standard. I think a good example at present is work in the carpenter's shop where you have to use your hands. You earn a lower rate than what you can earn sitting in the mail-bag shop. Everyone of the chaps there that goes out on the works, their money immediately drops by nearly half because they are going to work outside and you are in the open air, but nobody objects to that. . . .

593. That is a point.—Not one of the men I have ever met has ever minded his money dropping for the sake of getting fresh air plus work on a reasonable job.

594. A more interesting job?—A more interesting job.

595. *Chairman*: That is a point. We have listened attentively and with great interest. Frankly I think that three-and-a-half hours is about as much as one can absorb; you are obviously men of great endurance and you have stood it better than we have, but I should like to thank you on behalf

of my colleagues very much. I think we have reached the point when we have got enough in our minds now for one day and cannot absorb very much more. Thank you very much. You have responded to our questioning extremely well. I think I would like to congratulate you; all your answers have been within the target area, we have not wandered off the subjects, in which we have been extremely interested. We would like to thank you for your written evidence and for this oral evidence. We shall think over what you say and we shall not hesitate to get in touch with you. May we assume that you will get in touch if there is anything further.—*Mr. G.*: Yes.

596. *Chairman*: And in the meantime if there is anything further you would like

to send us on matters we have not covered at all, or in supplementation of what you have said, send them along and we will append them to your written evidence, unless you ask us not to do so, and study them.

Mr. G.: I am sure my colleagues would wish me to say we are all conscious that what has happened today is a very great step forward in penal reform, in fact greater than has ever happened before. We are greatly appreciative of the facility you have afforded us today and the spirit in which the whole thing has been conducted. We do appreciate it very much indeed.

Chairman: Thank you very much indeed.

-
(*The witnesses withdrew*)

MINUTES OF EVIDENCE
TAKEN BEFORE THE
Royal Commission on the Penal System

Witness: Mr. RICHARD HAUSER *of the Centre for Group Studies*

Wednesday, 27th October 1965

Present:

The Rt. Hon. LORD AMORY, G.C.M.G. (*Chairman*)

The Hon. Mr. JUSTICE EDMUND DAVIES

The Rt. Rev. THE BISHOP OF EXETER

Mrs. B. SEROTA

The Hon. S. C. SILKIN, Q.C., M.P.

Mrs. ELIOT WARBURTON, O.B.E.

The Rt. Hon. LORD WHEATLEY

The BARONESS WOOTTON OF ABINGER

Mr. A. ALEXANDER, O.B.E. (*N. Ireland
Observer*)

Mr. A. J. E. BRENNAN (*Secretary*)

Mr. D. F. INGREY (*Assistant Secretary*)

Memorandum submitted by the Centre for Group Studies

Summary of Scheme

Proposal

The purpose of this paper is to make concrete proposals for a comprehensive scheme for (1) prevention of social breakdown, (2) social rehabilitation; and to stimulate general discussion to counteract the hopelessness and apparent deterioration of society through lack of community co-operation, inadequate social tools on the part of experts and professionals involved in society, and, above all, lack of social education.

A twentieth century approach means discarding old-fashioned attitudes and being prepared to evaluate critically new proposals and to collaborate in seeking solutions. People will gain new hope by using new methods which produce better results.

Prevention

Social Prevention means prevention of social inadequacy, which produces apathy and frustration. These are the enabling factors of crime. Attacking crime, however, which is a major symptom of social inadequacy, is no short cut to social maturity. There is a need to stimulate indignation amongst all those who suffer from loneliness and frustration, in order to get out of apathy and develop the will to act. The technique of prevention must become everyday household ideas for everyone to know and practise. This is no private hunting ground of the professional.

Social education can begin to compensate for the failing family and loss of community cohesion, right down to the street games children no longer play because they cannot play safely in the street.

It is too late for conventional action. Prevention work can best start with the police who appear to be the only body who knows what goes on in the community.

The mechanics of prevention: survey, pilot job, handbook for prevention officers, training of prevention officers. Need for comprehensive realistic planning to reverse present trend.

Proposals on prevention schemes: the police as "social surveyors". Prevention is everyone's business because the only factor which makes people mature is responsibility. Social planning is practically non-existent in new housing areas, beyond statutory "musts".

Social Education

Every child needs to be successful and significant. If no positive outlets are available, children who feel failures will seek criminal ones, crime being the creativity of the negative non-conformist.

Existing machinery for collaboration between Home Office, Ministry of Education, and Ministry of Local Government must be used to alert everyone to the importance of the school as the ideal centre for social education for the young. Using the tools and methods of social education in Socratic ways makes everyone alike, student and teacher, and embodies the democratic principle.

Proposals Appertaining to Preventive Work and Treatment of Young Offenders

Importance of dealing with the environment young people live in *before* breakdown occurs.

Possible pilot schemes:

1. For latchkey children after school.
2. Weekend activities.
3. Weekend family centres.
4. Substitute families, "uncles and aunts".
5. Special schools and classes between remedial departments and child guidance centres.
6. Communal sports centres and "safe driving" and car maintenance schemes.
7. Action research projects in community prevention on three levels: (a) the advisory, (b) the executive, (c) general application.

Experiments in the treatment of young offenders:

1. There are three areas for experimentation and action based on typology of (a) children at risk and young offenders; (b) parents of such children; (c) a social and anti-social environment. Phasing of treatment and of re-education is essential.
2. Fostering a sense of responsibility among young offenders for each other.
3. Need to help the parents, family and environment.
4. Parental optional training courses.
5. Area Approved School (in conflict with the accepted idea of non-association) to be linked with preventive and after-care work in the area.
6. Area youth centre open throughout the week, to help non-conformists channel their energies into positive ways.
7. Approved Schools, Remand Homes and Borstals.
 - (a) What is termed success in Approved Schools is usually apathy disguised as conformism.
 - (b) Linking boys' Approved Schools with girls' schools in the area.
 - (c) Adoption of socially handicapped persons by Approved School. Sponsorship of Approved School by sports clubs, theatre clubs, ballet schools, miners' federations, old people's clubs, investigation of a number of Approved School youngsters who grew up in homes and orphanages.
 - (d) Parent-teacher associations in Approved Schools as a means of educating parents and linking them with the after-care agents responsible for boys' progress on release.

- (e) A phasing programme covering three years during which Approved Schools would be closed and replaced by other establishments.
- (f) Units for specially disturbed and violent youngsters.

Remand Homes

- (a) Greater link with families.
- (b) Isolation units to enable boys to think about themselves and what has been happening to them.

Borstals

- (a) The main impact of a new régime is felt during the first few weeks. After this the effect wears off.
- (b) Intermediary treatments, such as voluntary work battalions could cut down Borstals and Approved Schools by one-quarter to one-third in five years and again by the same in the next ten years.

8. Young motoring offenders.

- (a) A special reference to this is made because there is a glamour to car driving equivalent to that of the knights in armour of mediaeval days. Driving a vehicle would represent success, significance and sex.

As many such offenders have no driving licence it would seem reasonable to have them taught to drive properly. Having their licences endorsed for dangerous or drunken driving, or stealing, only makes them more criminally inclined, since this is all the excitement they have. A police controlled training course, undergone with their friends, could be part of their rehabilitation and, indeed, part of any programme for Rockers.

- (b) They should also have the choice of paying a heavy fine, prison, or some form of alternative service such as in the casualty ward, in the morgue, etc. after which they could qualify as traffic wardens.

Alternative Tools for Judges

These could offer a wide range of discrimination in sentencing:

- (1) Weekend prisons.
- (2) 12-hour prisons.
- (3) 5-day week prisons.
- (4) Work camps.
- (5) Prison communities.
- (6) After a certain period of time, and according to the seriousness of the crime, criminal records should be expunged and all evidence destroyed so that ex-criminals should no longer be precluded from any employment on the basis of their past.

Social Rehabilitation v. Prison

The Department of Prisons and After-Care to be changed to the Department of Social Rehabilitation. One-third to one-half of the present prison population removed from present prisons and put to work in institutions where they pay for their keep. They may remain there if necessary and if they so wish, after completion of the sentence. These are severe inadequates in what we call Phase 2 and they form up to 70 per cent of recidivists. Punishing inadequacy produces greater inadequacy. Security for the community must, of course, be maintained. If punishment is the prime purpose of prison then there is, of course, no need to sort people out. But if social rehabilitation becomes the prime purpose, there is a great need to produce the necessary criteria for sorting out prisoners according to types. Their stay in prison should depend on the results of social rehabilitation and the way they respond to it.

A typology showing types of prisoners was worked out with the help of 12 groups of Prison Officers, and a further phaseology showing the main phases has been evolved. So far, the King's men have not produced this.

Obviously, everybody agrees that at least 90 per cent of all people in maximum security prisons should not be there under maximum security conditions. Some opinion of governors, prison officers, and even prisoners puts this even higher. If prisoners could be sorted out, one could concentrate on those in Phase 1—the aggressives, inadequates, psychopaths, etc. and those are truly professional and dangerous criminals.

If there were no automatic remission of sentence for people who have not responded to the social rehabilitation, and if there were early release for those who are a safe bet, then prison as a social rehabilitation centre starts to make sense.

For any prisoner coming out, there must be a full description of his type and phase, which an intelligent Prison Officer trained for this should do better than anybody else, being helped by all the experts concerned. This should help Probation Officers and others to help the prisoner at all times to know where he stands as to type and phase to prove that he can get out of it. Each prison should have an annexe where alcoholics and others can be taken care of when they leave, not in the sense of a hostel.

Hostels will only be useful when people have been selected to go there as a logical step and not because somebody just put their name forward. In hostels people must also progress.

For certain groups prisons should not exist. Prisons should be social manpower centres to deal with social problems in their area on a voluntary basis to pay back.

It is clear that many prison officers, especially in the higher ranks, will be nervous of change. There is also great need to overcome apathy in prison. Staff should be interchanged in the different fields of social rehabilitation. Once these matters become an everyday part of prison life, existing blockages will disappear.

Social Rehabilitation v. After-Care

The "Acto" Report is a report producing grave doubts, but, as the decision has been made, one should try to implement it. This again depends on the evaluation and the training of prison officers to be rehabilitation officers. Far better training is necessary, especially in group work, to enable prisoners to form groups. Prison officers should get the results of the typology and phaseology so that they know as much of the men as possible. Interviews cannot replace observation.

Staff

Staff will be insecure under this new approach. Pilot jobs will be needed to see what can be done to give them a chance to develop. Training and more training will be needed. Apathy is no respecter of rank.

Pilot Projects in the Criminal Sub-Culture

Need to influence the criminal sub-culture by enhancing the social climate of the criminal class. Making the potential and actual empire builders of crime lose face by weakening their actual and potential associates confidence in their power and ability to get away with it. Trained community workers, either government sponsored or employed by an outside body, to start in two picked areas working openly in liaison with all sides and trusted by all.

Proposal

The purpose of this paper is to give a comprehensive report on the conditions necessary for firstly, prevention and, secondly, social rehabilitation. These cannot be considered apart. The first section will deal with prevention. Social prevention, that is, preventing

people from getting into social distress and breakdown in the mass, must be dealt with in order to have any success with the second part, that is, dealing with people who have got themselves into social distress and breakdown. If we do not turn off the tap it is useless to wipe up the mess. Case workers must not only look after malaria patients in hospitals, but when social malaria is rampant outside the hospitals somebody must tackle the flies and the dirt. Case work, as it is done now, and the pitifully limited community work, are mainly dealing with the problem either on the basis of individuals or dealing with an anonymous mass of people, with equally poor results as far as the problem itself is concerned.

We propose here a comprehensive government policy which, because each sector is part of a comprehensive whole, must offer more hope of success. The lamentable results so far obtained were better than could have been expected, but progressive deterioration can be anticipated because the tempo seems continually to accelerate. The prison population may be slightly diminishing but frequently only one out of three or of four crimes is being detected. There are many criminals who walk the streets because the police are over-extended, because neither the prevention which should reduce their work is being done in the community, nor is adequate after-care being provided to rehabilitate to society those convicted.

We consider that the situation has become dangerous. Only if some scheme such as the one proposed here is promoted will there be produced the essential element of hope which, together with the element of courage and rational understanding, will enable that closer identification with victim and victimiser alike, which is necessary for success.

The morale of all the services is understandably low. Their standing in the community is, unfairly, below par. The co-operation of the community is all too limited. The community not only leaves dealing with its problems to the professionals but blames them if they cannot achieve results which can only be achieved through community co-operation.

We think that each section described here has its own particular part to play in the master plan and in each section there will have to be knowledge and understanding of what is going on elsewhere. Progressively the personnel in one section should understand and see the work of another and be encouraged by it. Possibly, at a later stage, personnel could—after training—be interchanged to work in other sectors.

However, it is important to make quite clear that the purpose of this paper is not only to make concrete proposals but to stimulate a general discussion leading to improvement of the conditions here described.

As the world contracts all its problems become both clearer and more urgent, so, we suggest, in a society becoming more wealthy do the problems of prevention, of social education and of social rehabilitation. Accordingly a new approach must be more comprehensive than the current administrative division of problems might suggest and I have taken the liberty of including in this paper matters which are no longer with the departmental responsibilities of only one Ministry though inter-related.

We would like to emphasise also that we see the importance and the value of case work with its inherent intensity and attention to the individual. But its use must be in the appropriate place, namely, for those who have reached a condition of extreme distress or breakdown where the individual cannot function without a father or mother figure, or in some cases help of a similar and intimate nature. We are quite unable to see, however, the value of case work when it comes to the major group, community and society problems. This, we repeat, should not detract from the use of this tool at the appropriate place, namely, in a person to person or, at best, a mass group-therapy situation. Equally we believe that discipline and administration in any service must be good and that therefore any weakening of it can only be justified when undertaken with a proper purpose and understanding. Everybody concerned must have an opportunity to study the problem and to participate in its solution from the beginning, by discussing

it, and then, accepting whatever needs to be done whether they initially agreed with it or not, must resolve to give it a "fair go" and critically to evaluate results.

Some of the following points are new, others only new in their application. But for all to achieve anything we must obtain the full collaboration of everybody and not just after-dinner speeches. Even over-critical and unfriendly collaboration is better than gutless agreement. Our experience has shown that the people who are now concerned in this work can generally rise to the occasion. This will not only make their work, and those who are concerned with its final results, happier but bring about humanised relations. It is truly a twentieth century proposal, we think, to get rid of many of the old-fashioned attitudes which still clutter up the thought of modern society.

Thus the role of Britain as the leader in progressive social work can be fully and firmly established provided only that nobody is allowed to say "It cannot be done" without first trying, and nobody is allowed to say "We have done it for years" untruthfully, or "We have tried it and it failed". When it has been attempted previously we have had the wrong tools and the wrong spirit and often the wrong people.

The amount of co-operation we have had from the delinquents, from the Rockers, as well as from the stalwart and brave people who—often with great personal difficulties and sacrifices—hold these social borders of society so that the community can be more or less safe, is, in our experience, to be obtained from the great majority given some goodwill and some training. Training and discussion, open and friendly criticism to enable one to do things better, these when combined with willingness to listen to those people who have turned sour and pessimistic, without being affected, can help individuals to new hope which must generate the courage to take new rational and sound ways.

Prevention

We call social prevention the prevention of Social Inadequacy. Social inadequacy is what hinders people within their particular environment from developing those social abilities which will allow them to handle stress and relatively strong distress. For the huge majority therefore the main problem is not crime but apathy and frustration. Crime is a major symptom of social inadequacy, but dealing with crime *per se* is no short cut to social maturity. To guard against social under-development and thus fight crime, it is necessary to see prevention as a wide scale project involving many facets.

Social conditions in some areas are such as to foster social inadequacy, particularly among young people who have always lived with failure; another particularly vulnerable section of the community are young mothers with small children who have never been prepared for conditions on new housing estates where no facilities are provided to meet one another, where they feel obliged to "keep themselves to themselves", where middle-aged and elderly people suffer intolerable loneliness, and all age groups feel the frustration of inadequacy, the lack of adventure and hopefulness.

How can we make people able to look after themselves and *want* to overcome apathy? The answer, we think, is to stimulate indignation. This is all essential if one wants to get through the foggy, fatty layer of apathy. Prevention work in each area should do just this.

Prevention workers must be enabled to help, firstly by theoretical understanding of the principles of group-work to relate these to their problems. This kind of work can be undertaken very well by specially trained Police Officers, the Police being, we think, the only existing body which is still in direct contact with conditions in their area and therefore know its true problems and issues. It is, however, the personality of the prevention worker which makes him able to find out facts, to act on them, and to become a trainer of trainers—in short, to make the idea of prevention and its simple techniques household ideas for everybody, not only for the anointed. A "hunting licence"

automatically granted to one who has had professional training is no guarantee that the person bearing it can practise prevention.

We maintain that man's inhumanity to man starts 200 yards from wherever we are; prevention has the task to deal with its removal—a task for all.

The downward trend in community life can be fought against only by widespread people's action, initially stimulated by a wise government and responsible officers, but carried out by the people.

For reasons which are well known and hard to change now the family is often unable to help. Other environmental forces must take over its failing function. Social education which is not being received either in the home, the school or the environment must be brought in as a compensatory force.

There is one striking illustration of how life has changed for the young. In a famous painting by an old Dutch master, children are shown playing children's games in the fifteenth century, most of which we can recognise from our youth. But the present city-children who cannot play on the streets any more no longer know these, hopscotch and other games, through which they learned natural group work and fair play. Thus a chain handed over from unknown generations back will be broken. Not only is an organic link lost with meaningful tradition but also a vital factor in the well-being and cohesion of the community.

Conventional action now too late

To take action, as is mostly now the case, when the damage is done, is to be too late. "All the King's men", judges, psychiatrists, jailers, social workers, probation officers, youth officers, can do very little but attempt to prevent further deterioration—with, we think, lamentable results as the statistics continue to show.

The fine work they may do deals mainly with individuals: firstly, as case-workers (e.g. judges, psychiatrists, probation officers, etc.); secondly, as mass-workers treating a mass of people equally whatever their case (e.g. as in prisons or in anonymous new towns). This will never stimulate community life, which has always depended for its survival on appropriate group-forms.

The argument that other countries do little better—and sometimes worse—can be answered by emphasising that this country has an outstanding and leading tradition in humane institutions, be it in law or democratic tradition—which is, of course, a form of group life. To regain this leadership, now so very much needed everywhere, is more important than creating better missiles, it is a better gold reserve—a source of potential goodwill to be tapped from among all those carrying the responsibilities of leadership in all countries. How to deal with their problems within the framework of democracy is the most pressing question of our times.

It would be fallacious to pretend that the issues of social distress can be seen in their entirety as distinct from the problems of community life; poor family life—two adults and 2.2 children, without grandparents, aunts, uncles or cousins participating—is potentially disastrous. Yet taking into consideration the lack of deliberate social education by any agency, the values by which people live are astonishingly high.

In order to complete the picture we have therefore added a small section on social education fully realising that this is not the concern of the Home Office. Yet, to be really successful, it will be necessary to face these issues simultaneously.

The purpose of this paper is to ask for consideration of the points made, hoping for full discussion on these matters—but above all to point out that whilst administrators and experts play their full part, of course, the population itself must be brought into the social picture in due course, because unless it is, the proposals made will not serve in any major way. They might at most serve to prevent a repetition of some of the old mistakes, whereas, if they are used to their fullest extent, they could serve to establish

the basis of the much wider life open to any who wish to fulfil themselves as social beings. The Welfare State has proved itself a wonderful blessing for the majority of citizens, enabling them to live without fear of tomorrow. This was the achievement of the last generations. Now our task is to show how to overcome the new problems of the 1960s—how to deal with apathy, frustration and aggression. There can be no nobler task than to face it where it hurts most.

No admiration is expressed for the many paper-critics or the couch artists who reduce social problems to individual psychology but will never lift a finger themselves giving witness of any will to do more than patch up. These workers who see the answer in social aspirins, but would leave the situation basically as it is, remove a few of the most obvious symptoms, thus postponing the day when a courageous Government, an aroused Civil Service and—last but not least—the people, by their action, too, will participate in a full scale attack on these issues.

The only vested interest can be in the future, not in the past.

Though not unknown to some people for a great acidity of expression, I would like to ensure however that the following points do not detract in any way from my admiration for those men (and women) who defend society at its borders. May I express, therefore, my admiration for the police—their humanity, intelligence and ability to understand, from the top man right down to the P.C.s; my appreciation for the Prison Staff who have carried the Wandsworth Scheme and other projects, and who may now benefit from new leadership; for many harassed and overworked Judges and Magistrates and senior administrators of Her Majesty supposed to tackle social problems without social tools; and for many more besides, whose dedication to the care of individuals simply cannot stem the flood of social problems, because their case-work tools are inadequate and inappropriate to the task before them. All these need honourable mention to make sure that the following points are taken in the same spirit of helpfulness in which they are given, and not merely as unappreciative criticism.

The Mechanics of Prevention

If one is to guard against manipulation from the top, the stimulus must come to the people by finding out the facts themselves—

- (a) The police and the authorities for themselves;
- (b) The young on their level;
- (c) The different peer-groups for themselves.

Stimulus and help should certainly come from authorities, from specialists, and through training.

Very small trials conducted so far seem to show some good reason for optimism and we think it will not be difficult to fill the gaps. The desire for worthwhileness is exciting in its own right, and the very boredom and frustration so prevalent today, can be turned into a positive factor, by enabling people to see, by contrast, the stimulating possibilities of developing their talents and interests—and of making life what everyone feels it ought to be.

Pilot Jobs

Nothing will convince people more easily than the establishment of pilot jobs, showing how the social process can be started.

Handbook and Training

The basic information on how to go about discovering the needs which form the starting points for any community action is extremely easy to convey. We would be very glad to produce any material needed. This material would have to be steadily improved as more information and experience were forthcoming, and eventually be incorporated, as a Handbook for Prevention Officers.

Prevention Officers

Responsible for the carrying-out of schemes in each region should be a Prevention Advisory Committee consisting of people involved in communal work. But the work should not be done by them but by leaders to be found among the people themselves. The liaison should be made through a Prevention Workers office. Apart from reporting back on the situation, the Prevention Officers' task would be:

- (1) To stimulate as many groups and potential groups not yet existing, to care for their own group, which is their concern, in particular, and for other groups in the community in general.
- (2) They should open as many doors as possible wherever necessary but not pamper or run the activities of their groups.
- (3) They should make it abundantly clear that while the Welfare State will continue to do its allotted share, which should be regarded as a minimum, it is up to the people themselves (as in the Blitz) to produce that maximum of human warmth and solidarity which is a challenge to all people.
- (4) On the basis of the inadequacy theory, they should continually stimulate action surveys, to re-assess the situation, and to learn how best to act, accordingly.
- (5) They must face the social issues around them without being forced into defensive attitudes, whereby the situation arises in which society ceases to act humanely in the field of community problems, but merely reacts.

It is a sick community indeed in which parents prefer to play Bingo or sleep open eyed before television when their young need help—

the young demand a club but are not willing either to help to build one themselves or to participate in helping others—

lonely young housewives are unwilling to organise themselves to help each other and families by setting up voluntary play-groups and other self-help schemes—

over 45s would rather go and see a doctor about psychosomatic illnesses than enrich themselves and their community by giving the help they could so easily give—

too many elderly would rather feel and remain bitter than demand their rights but also help others in trouble—

This is a very endangered community.

As the situation becomes chronic, human beings become more apathetic and more frustrated. Apathy and frustration being the enabling factors of crime, we see this fever curve of society rising inevitably.

It is the task of prevention officers, and parents, adolescents, and others whom they influence, to express their indignation and through this a communal will to act; those they influence can be shown how to identify themselves courageously with others who need their help, and whom together they can work to help.

It is clear that by encouraging realistic and far reaching comprehensive planning on this level, the prevention officers can be instrumental in producing an invigorating social climate which can reverse the present trend towards violence and fragmentation.

Proposals

We suggest that each area (borough) and sub-area (community) should in due course be surveyed in order to:

- (a) Find out what social activities go on, serving what age groups and other groups.
- (b) What social activities do not exist or exist only in a very minor way. There is a great need to differentiate between the freedom of everyone not to participate in their community if they wish to stay out of it against the freedom to develop their own peer-group and community interests without being forcibly drawn into organised activities.

(c) If social activities of essential value do not exist in a community it will be necessary to help those concerned to *help themselves*, but *not* to do it for them. Therefore

1. Groups of young people must be helped to establish themselves and to start their own clubs, but soon start helping others as well to do the same.
2. Groups of young mothers who want to have contact with each other should be enabled to organise their own voluntary self-help crèches and play groups.
3. The middle-aged women whose children are semi- or wholly independent should be helped to meet one another and to create a more interesting and richer life, participating also in the general care of others in the community.
4. Where the elderly are concerned—again self-help by their own age-group, must precede any assistance from outsiders. No reason why they cannot help others—e.g. by becoming honorary grandparents, organising baby sitting services for young parents, etc.
5. Any interest-groups which may come into being, could follow the same general self-help plan.
6. The Rocker groups need special attention. They (and also the "Mods") are very mobile and their dormitory area is often distant from their "fun" area. Here planning will have to be more elaborate. (For the moment Rockers are not welcome anywhere and their leather jackets make them easy targets for general contempt and disapproval. They are mainly the old failure group, whereas the mostly more sophisticated Mods tend to belong to the more successful type of youngster).

It is tragicomic to see how much goodwill goes to waste amongst these youngsters who wish nothing more than to have success, even if success implies responsibility. Unfortunately for most, "success" means challenge of a social and anti-social character; surely this is not exclusively their fault but the fault of society which cannot be bothered with them. If it is true that virtually 80 per cent of juvenile crime stems from boredom, it is equally true that boredom is the direct result of social under-education.

Who should start

In order to make people aware of how bad the situation is, surveys should be made of each area showing what goes on in it and what would be essential to Prevention; we think the first and best group to do this are the police. The police are the only overall body which keeps contact with the community 24 hours a day. Our experience with the police as "social surveyors" has given us absolutely convincing proof that after some basic training in Community—or group-work—no other body of interviewers can build a more concise and intelligent picture of what goes on around them. It is easy enough for *them* to realise the place of prevention in any scheme designed to curb crime.

However, Social Prevention is not related to crime only. There are other forms of social breakdown, equally dangerous to the cohesion of society and requiring prevention just as much. The work to be done goes well beyond the points mentioned so far. Certainly it is essential to sketch into a plan of any area, nurseries, play centres and playgrounds, whether formally or informally supervised, where children can play without being in "organised groups", youth clubs for various types of youngsters, of one or both sexes, meeting places for communal activities, plus interest clubs and associations, and clubs for the elderly. But then one proceeds to the various social services; the local hospitals which need the support of non-professional help as well as of trained staff, old people's homes and mental hospitals and their unsatisfactory ties with the outside community. Over and above the necessary aid to delinquents, alcoholics, down-and-outs, there is the much needed assistance—material and social—to widows and one-parent families, to handicapped and elderly in any community by the community itself. Last but not least, in newly built areas, there is the need to plan the enabling factors which will help the future community to help itself. All of this belongs to the *social* face

of the community. The blank open spaces in any plan for new housing will speak for themselves, if one studies it from this point of view.

We think that to use the police for such surveys—alongside their work on the beat, etc. would give them a first-class insight which nobody else's could equal. It would also change the image of the police considerably. It is not suggested that the police should *run* any service, youth clubs, etc., but rather that the attitude be taken by them that prevention is the task of the community, and would the community kindly get on with it. Indeed, they should be mainly advisers and helpers, not "doers"—so that the people themselves will take a hand in community action and prevent the professionals from being in sole charge of it themselves.

This is where training in the basic principles of group and community work is needed. Unfortunately these are not taught in this country yet, other than by a few including ourselves. We maintain that these can either be learned in 12-15 sessions or not at all.

Once the police have ascertained the overall basic facts, the young may be brought in to help with the survey. Surveys should be followed by action.

We think, therefore, that group and community work should be taught in school to be applied outside the classroom and the school itself. This we call social education (see attached paper).

Training in social education (i.e. group and community work) for the young is all-essential. It will prevent the world's most widespread and also most unnecessary cancer—social under-development—which produces the well-known symptoms of boredom, cheap thrills and trouble—the results of "unlived life".

Why Prevention is Everyone's Business

In some of the very poor districts there are distressed sub-areas from which come many juvenile (or adult) delinquents. Nothing happens in the normal course of events until they come to the forceful attention of the law.

In Fulham I understand there are 82 Clubs—80 for the "good boys", 2 for the "bad boys"! Needless to state that while not begrudging the nice boys their clubs, the need of the second group is much greater. Yet nothing is done.

In one club a new professional youth leader, on his first day of duty sent away all the boys who looked like Rockers. The selection was made either by sheer intuition or by their haircuts. No other club was available for these boys.

To the best of my knowledge there is no training at present in this country anywhere to prepare youth leaders for work with youngsters known as "Rockers".

For many of these failure starts either at five or at eleven, or faces them at fifteen, when the protective school life recedes.

It seems to be the rule, not the exception, that whole areas are without any social planning (beyond the legal "musts"). Some recently proposed, or to-be-built, areas do not provide on paper for any common facilities, rooms and places to foregather which could be used (even the same ones) as nursery and minding centres, or mothers' self-organised pre-school play groups in the morning, as clubs for the old in the afternoons, and as premises for evening meetings. A Community Centre built sometimes years after people have moved in, and run mostly by a clique or a full-time employee catering mainly to middle-class tastes, can never replace the amenities mentioned earlier. Yet to make it possible for people of various age groups to satisfy their various needs, belongs to the true practice of prevention, and it is clear that so far very little planning, if any at all, has been done with this in mind.

The worst hit by this state of affairs are those sections of the community who need it most. In some plans dealing with new housing areas we looked for but did not see any

proposals for non-statutory amenities, i.e. places which groups could build themselves, with only as much outside help as needed. A Youth Club which young people help to plan, to build, or to paint, is unlikely to be smashed up.

We all know that the only factor which makes people mature is responsibility. Yet this very responsibility is being denied them constantly. Today the people's will to help themselves to become responsible for their community is all too frequently replaced by local and central authority.

Perhaps there is a small advantage in this otherwise grim situation in that it means that the matter has not become anyone's vested interest yet—it is no private hunting ground requiring a special licence to enter it.

Social Education

We realise that, primarily, the purpose of this paper is to serve the Home Office. But the problems with which we are faced cannot be neatly separated and we think it essential to mention that, in our judgment, the fundamental balancing factor in securing social integration is not functioning properly. We refer to social education which is everywhere deficient, in some aspects non-existent, and where in several spheres the field is dominated by destructive anti-educational forces.

- (1) The Family has been weakened as it has shrunk from the large extended family to a unit composed of—on average—2 adults and 2·2 children without effective assistance from grandparents, uncles or aunts.
- (2) The Community has been progressively weakened by its increasing anonymity, lack of tradition and effective shared values.
- (3) Values are inadequately taught and therefore unavailable in situations of daily living and, moreover, adults very often do not in their conduct, reflect the values they would transmit. Values suffer more from current apathy than they would if aggressively attacked, which might unite the opposed factions (as happens in war).
- (4) School is a half-time learning institution—180 days a year. It usually provides only a minimum of training for life concentrating upon knowledge and skills—necessary in themselves but very limited and unreliable without a secure basis in the skills of social living.

For "Half of our Children" (Newsom) and in particular the 30 per cent open failures of C and D streams, we need more than re-organisation in Comprehensive Schools, though they may cushion a little of the humiliation of the failure label; we need a programme which will give these youngsters **SUCCESS AND SIGNIFICANCE** comparable to that felt by the intellectually and technically gifted children. Our work with teachers and the schools convinces us that this can be provided.

We see the answer in the training of these young people in what we call the Social Education course, which would give them a basis for confidence in themselves. Our information suggests that there is literally no case for keeping these young people in schools under present conditions. Their daily school attendance is for them identical with their failure.

By finding out what needs to be done, what are the more obvious social deficiencies in the area *within 250 yards from their school*; by discovering where "man's inhumanity to man" begins in neglect of the aged, of widows, and of "Latchkey Children", in the desperate shortage in hospitals of helpers, in the absence of play centres—"off the streets"—of assistance at dangerous crossings, etc., etc., they begin to find a purpose.

We think these "unsuccessful" children seek to find personal significance in crime—those that have some guts left; others of course sink into apathy. For the socially underdeveloped youngster crime is often the only creative outlet left in a world that rejects him, a world of boredom and bitterness without even a real enemy to fight unless he can find a scapegoat and therefore attacks coloured or other minority groups.

If we can get at these youngsters in school and after school—help them to form youth clubs, and encourage them to make surveys and then proceed to act on them, to undertake service to the community where the need is clear and nothing is taking place, to fill the social vacuum nobody now is concerned about, and which professional social workers cannot conceivably be spared for, then we can start to lay a foundation of community responsibility.

Accordingly, we suggest, it is necessary to consider whether the existing machinery for collaboration between the Home Office, Ministry of Education and Ministry of Local Government should not be utilised, as a matter of great urgency, to alert all concerned to this problem of social disruption, to the pivotal position occupied by the schools, so that instead of crime, misery and genteel boredom, creative social action may be initiated in the schools hitherto a very weak link in our social defences.

Need for Training in Social Education

We do not wish, on this occasion, to go into further detail about Training. We do, however, want to emphasise as strongly as possible that people cannot be helped to understand what goes on around them, to reduce their resentments, fears and aggressive attitudes, by any palliative psychological means.

To utilise their much neglected reasoning powers they need to receive actual theoretical training to deepen and extend their "know-how", to digest the facts of social living thrust upon them, to help them to grow up socially.

This is the basis of our work (as demonstrated in the past in the Wandsworth Scheme before it was slowly killed off) and this is surely what must be, in some form or other, the basis of all progress of the mind. It should, of course, be given to all youngsters in their early years as social education, and continued as they mature. If, however, this has not been given early, it is absolutely necessary no matter what the age of the person concerned to have access to it.

The structure of this Training, as of any other training, must enable the students to become teachers (out of their own experience) to teach "us", whoever we may be, *vis-à-vis* them, what they know and we don't. They must also be able to use the social tools and methods, and work out for themselves whether these really apply to their problems or are wrong or irrelevant. The fact that all participants are both students and teachers embodies truly Socratic and democratic principles.

Proposals appertaining to Preventive Work and Treatment of Young Offenders

We think that every effort should be made to concentrate on the stages that persons and groups live in *before* some kind of social breakdown occurs; but our interest is centred in the main on action rather than mere diagnosis.

Bearing in mind that in dealing with young offenders who are before the courts, it is necessary to take into account the school (or work situation), the family, and the area, plus the fact that it is to this environment that any young offender normally returns. Nothing is more important to stress than the needs for success in failure children. And we may well link with this the need for many parents to find ways of overcoming their own social handicap.

With these points in view, we venture to suggest the following pilot-schemes as worth implementing:

- (1) After-school activities or homework classes for "latchkey children". Activities could include various sports both indoor and outdoor, road-safety quizzes, model making, etc. This type of after-school activity was envisaged by the Newsom Report but not, so far as we know, applied. Latchkey children should be kept in school one or two hours later than others so that they will not roam the streets, often the beginning of their delinquent career.

- (2) Special weekend activities for youngsters who for reasons of rootlessness, family problems, etc., are at a loose end.
- (3) Weekend family centres where boys and girls and parents can come and discuss their difficulties both on the case level, but more important, together with other groups of a similar nature.
- (4) Private homes situated in their own neighbourhood for those children whose families have disintegrated. The aim of these would be to keep the children's places in their schools, their groups of friends and neighbours, but the important thing here would be that each endangered child would have a "second family" in addition to his own parents, "uncles" and "aunts", so that he is never destitute from lack of care and affection. In turn this would help each neighbourhood to care for its own failures, and help them, if possible, to succeed.
- (5) Special schools and classes in every area, day or evening, for those youngsters who for some reason cannot be handled by normal teachers. No stigma would be attached to these schools standing halfway between remedial departments and child guidance centres.
- (6) The provision of communal sports centres for the "toughies" providing opportunities for them to meet a real challenge and prove themselves. There could be included in this an additional place for "safe-driving" instruction and car and motor cycle maintenance and also for socially useful schemes which would put these "take-and-drive-away merchants" to a positive use.
- (7) Action-research projects in community prevention carried out in specified areas to investigate the effect of community programmes on preventive work. Such programmes including a special emphasis on youth, would provide liaison with social workers, schools, probation officers, clubs and parent-teacher associations, etc., under the aegis of an Area Prevention Officer. It would also produce a chart of the area, showing its main problems, pilot-schemes designed to involve everyone from the deprived and socially handicapped upwards in efforts to improve their own environment and make their lives more purposeful and fruitful.
- (8) A Community Prevention project would involve committees working on three levels:
 - (a) *The advisory.* Advisers would be all those who have a vested interest in their own particular field, realising, however, that whatever happens in the broad context of the whole community in fact affects their own section of the work.
 - (b) *The executive.* On the executive side are all those who actually work with the community—the teaching profession (all different types, of course), the social workers, youth officers, general practitioners, and many other such valuable people, district nurses, mental health officers, as well as community leaders, aldermen, etc., and the whole bureaucracy, civil service, national or communal, and last but not least, the police.
 - (c) *General application.* Those who are going to help with the general application who, we think, should also be, for instance, people looking after small community centres, that is, serving between 100 and 150 families approximately, informal liaison workers, leaders of activity groups, etc.

Suggested Experiments in the Treatment of Young Offenders

- (1) Typology. We envisage three areas for experimentation and action:
 - (a) A typology of children at risk and of offenders. A phasing of the kind of treatment to be given.
 - (b) A typology of the parents whose children are most at risk. A phasing of the means of re-education or assistance.
 - (c) A typology of the environment most at risk, a-social, anti-social. A phasing of the stages by which this can be improved.

(2) Fostering a sense of responsibility among young offenders for each other. For the socially inadequate, crime is a creative outlet. Those who are active in it to prove their ability should be used as leaders to help with a positive response to the needs of the community, where as now their energies are completely wasted, on what are largely crimes of boredom.

(3) In considering our general aims, we should say that there is an over-riding necessity for young offenders to feel co-responsible for those who may still get into trouble, and to see to it that they do not follow in their footsteps. This is in contrast to the present situation in which young offenders are only too ready to lead others into trouble and show them all the short-cuts. We also think it should be common policy to know that no one has really helped the child in trouble until one has also helped the parents, or, if the home situation is impossible, substitute parent figures.

(4) Parental-Optional Training Courses. When young offenders before the courts appear to have acted in ways which reveal parental ignorance or neglect of duty the courts would be empowered to (a) convict the young offender or, alternatively, (b) commit the parents, with their consent, to attend specified training courses either several weekends, or on an evening basis.

(5) Area Approved School. (We make this proposal, well aware that it involves a conflict in principle with the old practice of "non-association".) This experimental school would be linked with preventive and after-care work in its area, even the same neighbourhood, and would, therefore, have a common background and experience during training. Moreover, their training would concentrate on exploring the problems of relationships, of life and work in their own community, and help them to return to it with skills which they could use to improve it.

(6) Area Youth Centre. This type of youth centre would be akin to the Attendance Centres at present run by the police on Saturdays, but it would be open through the week and would cater specially for the negative non-conformists, aiming not so much to make them conform, but to turn their non-conformity into positive channels and help them to put right much that was wrong in their environment.

(7) Existing Approved Schools, Remand Homes and Borstals.

a. *Approved Schools.* It is our view that what is often being measured in the "success rate" of Approved Schools is not success, but apathy disguised as conformism. The training which it is claimed is the "deterrent" to violence is really a settling into apathy which only overlays the violence still beneath, or the inadequacy.

We also think that consideration should be given to the linking of each boys' Approved School with some girls' school in the area. This would help to relieve the present somewhat unnatural cloistering of boys in their schools.

There are a variety of further developments which we would like to see fostered; among these we would include the following: Adoption by Approved Schools of persons even less well placed; sponsorship of Approved Schools by sports clubs, theatre clubs, ballet schools (girls'), miners' federations, old people's clubs, etc.; an investigation of the number of Approved School youngsters who grew up in children's homes and orphanages.

Following the trend drawing boys from areas adjacent to the school, it should be feasible to consider the setting up of parent-teacher associations in the Approved Schools which could be a means of creating informal courses for the parents, and at the same time, a means of linking parents with the after-care agents responsible for the boys' progress on release. The emphasis would be placed on the parents' re-education and their boys' re-settlement.

Finally, we would like to suggest a carefully phased programme in which, over a period of say three years, a proportion of the existing approved schools would be closed and replaced by other establishments of the type indicated earlier.

We think that special attention would need to be given to the setting up of a small number of units dealing with the severely disturbed and violent youngsters. These units should be concerned not only with diagnosis of problems, or treatment at medical and psychiatric level, but also with the type of training which, together with the other treatments, could effectively rehabilitate these youngsters and fit them for resettlement with their families into local communities.

b. *Remand Homes.* The present system of Remand Homes should, in our view, be changed in accordance with our earlier proposals linking such establishments more closely with the areas from which they draw.

The Remand Centre would still be required to exercise a custodial role, but we see no reason why it should not provide much stronger links with families. This would, to some extent, remove some of the present anxieties due to both children's and parents' ignorance of what procedure is taking place, with consequent loss of contact and of parental responsibility.

Isolation Units. In addition to the provision for boys on remand, we consider that an experiment might be made with a number of "isolation" units used on a short-stay basis for boys who are thought to be endangered, either because they have been associating with others committing offences, or because they have been involved in some misdemeanour.

c. *Borstals.* With Borstals as with Detention Centres, the main impact of the régime is felt during the first two weeks—after that time the inmate gets used to it and the effect wears off. We think that there are not sufficient intermediary treatments available between the probation order and committal to Borstal, and if our proposals for a varied programme of treatment for the young offender were to be tried and proved practical, it should be possible for the government to cut down Borstals and Approved Schools by one-quarter to one-third in the next five years and to go on doing so until they are brought back again a quarter to a third in the next ten years.

One variation of this type of intermediary treatment might be found in something resembling Voluntary Work Battalions. These would be voluntary in the sense that boys could choose this type of training in place of the traditional forms. The routine would consist of: sports activities (intensive, of course); educational and vocational training; classification for future employment; voluntary service to the community.

Young Motoring Offenders

We feel that a special reference should be made to young car offenders in view of the fact that for many of today's young people, car driving has a glamour equivalent to that of knights in armour of mediaeval days, and provides the seemingly lost romantic outlet for the sense of daring adventure and the thrill of danger.

Amongst these are fellow-citizens who cannot handle the power invested in a motor vehicle, be it motor-bike or car, and others who cannot withstand the lure of somebody else's vehicle.

For many unsuccessful youngsters the motor-bike is the nearest approach to power and therefore also to success and significance—both very much needed. It also allows for sex by making it possible to take a girl out.

All these are powerful attractions in a situation of constant failure and boredom, apathy and insignificance. Punishment alone will mean little and often makes things worse; as so often the youngsters return from detention and approved school or borstal more careful and better trained; those who were frightened off are no doubt in the minority. After all, the conditions leading to the original offence have not changed as such; only a further element of fear has been added; but a boy returning has now significance amongst his peer-group, even if he was a mere nobody before.

The following points may be worth noting:

- (1) It appears (from what is not more than a very preliminary survey conducted by us) that many juvenile offenders cannot drive and have no driving licence. No wonder the many tragedies when not only cars but people too, get smashed up and not only the culprits either.
- (2) If a youngster has been caught on a dishonesty charge (driving away or stealing) his licence is often endorsed; if he is caught again this is prolonged and so on and so on.

Now for many of these youngsters motor-bikes and cars are the only excitement of life. If no dangerous or drunken driving is involved the loss of the driving licence makes them more and more criminally minded. They can not let go and so things get worse.

We suggest that all potential or real offenders should be taught the highway code and learn to drive properly.

They should either not have their licences endorsed or only for a short period—if they have gone successfully through their (police-controlled) training, preferably not alone but with their friends.

Car driving and mechanical repairs should be included in the Rocker programme suggested earlier.

First motor-car offenders (juvenile and adult) should be used, wherever feasible, for alternative service. They should have the choice, if they prefer, of being fined heavily (e.g. for first offenders 5 per cent of their yearly income) or imprisoned, or, if they choose alternative service, it should include a training period which does not take into account their convenience only.

Work in Casualty Department, in the Morgue, etc. should be part of this training. It is hoped that out of this (after the sentence is over) voluntary traffic wardens at dangerous crossings for children, etc. will be produced. As part of their duty they should stand by to help police with road accidents in fog periods or other emergencies, thus compensating for the harm done.

Alternative "Tools" for Judges

The alternative tools for judges which we propose hereunder should enable Her Majesty's judges and magistrates to have a much greater range of discrimination in sentencing and are a component part of the overall prevention scheme we propose.

The Possible Alternatives

(1) *Weekend Prisons* for people who have good jobs and are maintaining their families and would sleep either in or out of prison. The scheme—based on one proposed by me and accepted by the New Zealand Government—would provide for social training leading to service on a particular project of social value. Duties allocated for this "alternative service" should be in connection with one or other of the basic community welfare programmes, for instance: help in hospitals and mental institutions, especially casualty units; in hostels for the dying; assistance with the work of blood banks and of first aid posts on motorways and in danger areas; help with the aged; in centres for spastics and other handicapped persons; supervision of playgrounds, etc.

This sort of treatment would be particularly appropriate for motoring offenders for whom contact with hardened prisoners is particularly undesirable. The success of the scheme would arise not only from the improved conduct of the convicted person, but also from his persistence in giving help to the community, because this activity enhances his sense of his own value and significance.

(2) *Twelve-hour Prisons* for those men who need to be compelled to work and, of course, need training in social responsibility. A full day's work should be demanded in

the prison, broken only by specific social training courses. By the prisoners returning home each night the stability of family living would be maintained.

(3) *Five-day Week Prisons* would be for those who required similar treatment to that provided in the Twelve-hour prisons, but for whom it was not feasible to return home each night, or it was felt that somewhat more rigorous treatment was indicated.

(4) *Work Camps* would be appropriate for inadequates who lack security within a family or community setting. Included would be social isolates and incompetents, vagrants, etc. Three different grades are envisaged:

- (a) Extended work camps on "Foreign Legion" lines on projects of social value with the emphasis on stimulating leadership and initiative. Continued service after completion of sentence might be permitted.
- (b) Restricted residence for those seriously inadequate or endangered by the environment, e.g. run-down delinquent areas like some parts of the East End and Notting Hill. Sent to a small community in an isolated area—with or without their families—they would live in hostels or private houses, work according to their skills and await a review of their sentence conditions which would enable them to return to a city environment.
- (c) Confinement would be necessary for prisoners who could be tried out in less severe conditions than those provided in maximum security prisons. Controlled work camp conditions might enable long sentence prisoners to make a response not possible in normal prison conditions.

(5) *Prison Communities* providing a life with minimum restrictions and very limited P.O. staff have a part to play. The organisational pattern would, so far as possible, be set and maintained by the prisoners themselves. The community would provide for family living and be based upon a factory or agriculture with particular thought being given to rehabilitation of the family as a unit.

(6) "*Clearing the Record*". In our work with prisoners we have been impressed in many cases with their desire to become "accepted members of society". They point out that they are not able to do this so long as they retain throughout their life a "criminal record". We propose, therefore, that criminal records should be expunged after a certain period according to the seriousness of the crime. This might follow on the following lines:

- (a) After two years for misdemeanour.
- (b) After five years for petty theft.
- (c) After ten years for more serious cases.
- (d) After fifteen years for very serious cases.

After such periods without conviction their police record would be destroyed and no evidence of the past would be brought against them in a court. After the record had been cleared it would no longer be necessary for these people to mention their record in such documents as passport applications, applications for jobs, etc. and they would become eligible for employment within such bodies as the Civil Service from which they are now precluded. This would apply equally to those posts where bonding is required.

Social Rehabilitation v. Prison

We suggest that the Departments of Prisons and After-Care should change their character and therefore become the Departments of Social Rehabilitation because we consider that it is social rehabilitation which ought to be the main purpose of this type of institution. We suggest that one-third to one-half of the present population in prisons should be removed within a maximum five years from present prisons and the Government should have this as its target. As will be seen, this will not mean that all these people will be let out altogether as perfectly good citizens, but we think that at least

one-third, if not a far higher number (some experts think that the number, is up to 70 per cent in recidivist prisons), are severe social inadequates for whom there is no need to be in a severe prison of present character and, what is more, who are being further damaged the longer they stay in prison—which in due course becomes their home and their peer-group community, having mostly no outside family left in the functional sense of the word. We think that under the present conditions the key to the situation lies not singly with prison reform, not to improve a bit here and there, but with a slow acceptance of an entirely new approach of Social Rehabilitation. As long as prison is simply a form of punishment, it is simple to state that all prisoners should be treated alike for the fixed period allotted to them, all getting the same punishment in fact.

Once Social Rehabilitation is accepted, this principle makes no sense whatsoever and it needs a completely new attitude instead, where prisoners can be sorted out and treated accordingly both from the point of view of their attitudes and actions in prison and accordingly the ways to treat them there and also how long to keep them.

Our proposals for reform would enable prison no longer to be a custodial centre where people stay for their pre-ordained two-thirds of their punishment whatever they think or however they may behave, provided they do not get additional punishment for criminal acts committed in prison. Of all human institutions possible prison is the most illogical (and very costly, too!), especially in the case of the social inadequates who, as has been seen from the previous material, are victims of neglect and the mess producing the attitudes, who in due course go to prison for their a-social or anti-social actions in order to be made in turn still more a-social or anti-social there. There is no incentive now to change things. This is on a par with the old habit of beating mental patients 150 years ago in order to improve their mental health.

This does not mean that a community is not entitled to have its peace from those who break the rules, but the safeguard must be of such a nature that the community will not be disturbed still when the prisoner leaves the gates of prison.

With few exceptions, everybody will agree that prison does produce mostly deterioration and not social rehabilitation. Here the principle of law based mostly on revenge and "deterrent" cannot stimulate people to social growth. Neither of them seems to work and prison, and much of the law leading to it, are the green pills of society to be taken against earthquakes in view of nothing better being available.

What we propose is, in fact, that every prisoner should be evaluated and it should be clarified whether and where he falls into certain basic types. A typology for this purpose is available and the basis for it has been worked out with great diligence by 12 groups of ordinary prison officers, at our request, with extremely satisfactory results. This typology is no doubt only a first basis for further discussion and development but a most useful one which will serve governors and especially the prison officers who should be directly involved with the rehabilitation process to take place in prison; it will also have to help very much those who are responsible for after-care. A Probation Officer now enquiring after a prisoner will often get far too scant a description to serve him for his own task. There will be exceptions to a typology. We think that they will be comparatively few. There should also be a check on findings of course—so that experts will not fear we are putting them out of work.

The Phaseology

Equally important to the typology (where it applies) is a *phaseology* denoting the phase the prisoner is in, e.g. the attitude he has toward himself, the environment, family, etc., i.e. the stage of development or blockage he is in, and therefore the chance he has of taking his place in society. We think here it is essential to realise how much one can do to understand and then help the man therefore to deduce what his future will be if he does not develop further. If nothing is being done, the prisoners in most cases will become even more engrained in their typical attitudes and go further down in the phase they are in.

While we are not going to go into all details of the typology, which would demand a special paper, we would say that this is the way to change the attitude that because a prisoner has become a prisoner that he must behave and is going to have the same treatment as any other prisoner. This is a philosophy either of despair in the wickedness of man (outdated we hope) or of convenience or apathy suiting the administrative mind.

It is essential to sort the prisoners out, quite distinctly from the psychological testing which has been attempted, for all it was worth, and with the view of a chance of a real rehabilitation programme making an impact. If prison officers can help so much with the typology (always supposedly impossible so far to produce) they can also be trusted to apply it.

The man himself must also know where he is. He, too, should know the principles of typology and phaseology and avoid again the smell of manipulation (head-shrinkerism). The better he understands, the more he realises he is not the "Knight of the Road", Robin Hood, etc. but a poor social inadequate, the more chance there is to help with rehabilitation. Any dramatisation of him (e.g. by Judges before giving judgment) has the opposite effect.

The phases as we see them are:

The first phase is the aggressives needing maximum security.

The second phase is the severe inadequates—the main bulk of prisoners. No real attempt has been made so far to overcome the terrible handicap of Phase One or Phase Two. It is tragic to see how much could have been done and has not been done. Without doubt those who continue to be complacent, once they appreciate their own inadequacy and know how to deal with the problem, would either have to act or carry a terrible responsibility. Prison itself can be summed so far as having progressed from Phase One (punishment with violence) to Phase Two (punishment via apathy and frustration). The phases are set out in more detail in the Appendix.

The fifth and final phase is the phase when the man has left prison altogether and is no longer, as in the fourth phase, merely keeping his head above water, but actually helps other prisoners or other members of the community. Thus, from a negative conformist of the past, he now has become a positive non-conformist helping others. We have quite a number of such men now—for example—in "Recidivists Anonymous", a very small organisation of ex-prisoners from Wandsworth who help others in their own time.

If our phases are correct, and they are crude tools, then in Phase One should be a very tiny number. Even in maximum security prisons, governors, prison officers and prisoners independently have almost unanimously agreed that the figure may be between 3 and 5 per cent, though some thought is should include border-line cases, making up to 6-8 per cent. Others thought there might be only 2 per cent. Thus, the resources of maximum security prisons are *completely wasted for 90 per cent*. These people who are in the first phase need case work, care and attention, maximum security, and to be assisted to get out of it with the help of psychiatrists, psychologists and others. Phase One treatment should be the equivalent of the social nursery, without the punishment part, for people who simply have not yet grown beyond their aggressive station, however high their intentions in other ways may be. They should have both minimum duties and minimum rights. Wherever possible, they should not be completely separated from the rest of the prison so that they can see what the others can do and the others see what they can't do. We hope that really well rehabilitated prisoners in Phases Four to Five may also be used, before they leave, to live with Phase One people and be living links between them and the outside. These preferably should be those who were themselves either in Phase One or sufficiently near to it to understand the Phase One types and help them by simply living with them and talking to them as peers—which is a way no expert can do, and we think extremely valuable as an addition to expert help.

Phase One

It is suggested that a great number of recidivist prisoners are in this state and we come back to the initial proposal that at least a third to half of the present prison population is composed of these men who are severely institutionalised, often as a result of previous orphanage, approved school and borstal background. These men should be removed from the present prisons into institutions of a different kind as soon as they have become somewhat activated, life being made less fit for the lazy and comfortable. These men should be brought into action where they can work and be paid for it, living in institutions under some kind of licence, where they can earn their living through wages and pay for their keep from their wages. These institutions should prop them up and give them hope and while their "sentence" runs they should be obliged to be there. If the sentence has run out and it has unfortunately not yet been possible to activate them beyond this stage, they should have a choice, even being allowed to volunteer to stay there if there is a place available.

We would call this stage the *Land Army*. It is clear that people who have been institutionalised for a long time, and their capacities put to sleep by the institutions they have been in, will find it difficult to break out of it. We think this is, however, perfectly feasible in many cases—notwithstanding the fact they may be severely institutionalised, considered not very bright, be alcoholics, physically handicapped, etc., etc. Many of them will have nobody in the world who really cares for them. To keep them in prisons, especially maximum security prisons, is inexcusable. To put them into open prisons we also think is frequently a mistake. Open prisons ought to serve Phases Three and Four, and not just be an economy stage for those who do not run away, but who remain institutionalised nevertheless. There are, of course, other attitudes to open prisons, but, unfortunately, the main proof is not the open prison but what happens afterwards.

The prisoner normally would come into Phase Two in prison. If he is aggressive, or at least in such great despair that he may hurt himself, he may come at least temporarily into Phase One. Otherwise, the huge majority will, of course, not do so. It will be the task of all concerned to move these people towards Phase Three. In Phase Three, their co-operation will not be the first criterion but their readiness to argue and express all the old pains and miseries. Their learning processes can be utilised only afterwards. The most co-operative prisoner would, therefore, not by any means always be the best one—especially if he does not mean it, but only wishes to secure advantages. Phase Four will then be the result when one is satisfied that Phase Three has worked. When people are in Phase Four there seems to be no reason to keep them in prison because the main purpose of having them in prison—social rehabilitation—has begun to work. Of course, he may still fall back, but he will have a good chance and is in need of strengthening. Only if his mind works well and he has freed himself of his old inner superstructure and can get help to learn more about a better way of thinking will he succeed. We can't think for prisoners, but only help them to think better and more logically themselves.

Leaving Prison: The Stage

- (1) It is absolutely essential for us to know in what *stage* the man is when he leaves prison. This will consist first of the type he is, if he is a type. It will be so in most cases.
- (2) What phase the prisoner is in.
- (3) What the conditions are which the prisoner has to face, the phase of his environment. If a person comes out in Phase One, there is virtually no hope; if Phase Two, there is very little hope; if Phase Three, there is some hope. In Phase Four there is a reasonable expectation that he can manage. If he comes out in Phase Five he is actually a valuable addition to the community.

On the other hand, if the environment he comes back to is extremely hostile and aggressive to him—their own Phase One—his chances are very slim, even if he comes out

in his own Phase Three or Four. If the environment is not hostile but apathetic and couldn't-care-less (Phase Two), the chances of a prisoner are poor if he has nothing else to fall back on. This is the case now in many instances. If the environment is Phase Three instead and stimulating, his chances will be improved considerably, e.g. if his wife is keen for him to come back and hopeful, and if his chances of a job and friends are good. We must try to free also prison itself from its stage of Phase Two, as most prisons are now. This includes the thinking of many (not all—certainly not Mr. Fairn) responsible for this state.

(4) If the prisoner's chances are very good, if everybody is co-operative and he is on the same level himself, if the chances are on the level of Four to Five, it is of course excellent. We maintain that a person coming out in Phase Four into an outside environment of Phase Two is even worse off than a fellow coming out of Phase Two into environment Phase Four, bad as this would be. This is given as an illustration. The assistance necessary for people coming out at Phase Two, therefore, will have to be very comprehensive. Hence, our proposal of, if necessary, warranting institutions to help him rehabilitate in freedom if it was not possible to do so in prison.

(5) We think each prison might have a community donated informal annexe where alcoholics and others can go to have very special needs taken care of. The same should apply to borstals and other places. In time people may not need to go to prison at all but, if it is known what is wrong, go straight to such places. We find there is much good will for such projects. It would be preferable that prison officers (especially concerned and interested) would run or participate in these, rather than do-gooders who don't understand.

(6) It is clear that real work may have to be done with families, employers, etc., in producing conditions where the man *can* succeed, and our preliminary work with families gives us reason to believe that this is quite feasible, especially if one can save families, an effort which is now not considered as part of the overall plan; not just to be done when they become aware that welfare or divorce proceedings are imminent. As for Phase One, we think that anyone coming out of Phase One is a severe and, in extreme cases, an irresponsible risk.

Evaluation

We think that the basic evaluation of the prisoners must be left primarily to the prison officers who are most concerned with them. Such a simple evaluation system, as we propose, would enable lay-men like them, with as much common sense as we found in many of them, to be perfectly capable of doing so—needless to say, under the control of governors and experts, especially when dealing with those cases which are more complex. It is clear that one can see more in twenty-four daily hours than in a few interviews by experts, useful as they may also be to round up the picture and control the findings. This evaluation should exist before a judgment (e.g. in a remand centre) and be done every six months and with long sentence cases, every year. We think it is essential that prison staff examine and decide how necessary it is that a man should stay there and what he should do while in prison. This would involve not only determining his phase, but also the length of sentence and the conditions of it as he proceeds. Prisoners should neither be obliged to stay inside for two-thirds of the sentence nor entitled to come out after it. Whether a man stays longer than two-thirds or three-thirds should depend on the genuine progress made in rehabilitation.

In fact, in the case of extreme cases of Phase One, we suggest that in the last third of the sentence medical expertise should be called in to see whether the man is not too great a danger to be released even after he has served his full sentence, in order not to wait until somebody gets killed. The other prisoners, we suggest, may be released either in the continental way, where their supervision is under an executive judge who has the right to reconsider the punishment in view of behaviour changes, or by going back to the initial judge or his representative. However, a third way would be to have at

the Queen's Birthday a system of Royal Pardon which would, in fact, be a demand for a parole system. I understand that in some Commonwealth countries a system of pardon exists already. This "dark side of the Honours List" would help tremendously to change prison from a custodial place to a rehabilitation place where the best efforts possible must be made by prisoners. The pardon is proposed as using the royal prerogative to short-circuit many legal arguments. The Queen alone can over-rule the judges.

Hostels

It is clear that the present hostel system must break down if people are sent there in Phase Two. Even there the real impact will be limited to six weeks if no further improvement in the conditions occurs.

At all stages it is essential that a prisoner does not feel manipulated. Wherever possible he should be present when he is being discussed, and even have his case reviewed, if necessary, by a higher board. He must know exactly where he stands all the time, not just at the board meeting, so that his co-operation, or at least his understanding, can always be assured. Again, for hostels there is need for formal as well as informal rehabilitation, helped by outsiders.

Special Prisons

A special section for *homosexual prostitutes* should be made separate from the rest of the prisoners. *Alcoholics* should be helped in and out of prison by sympathetic, specially trained prison officers, as well as by ex-alcoholics. Prisoners with very long term punishments, including those of 30 years, which have been given recently, should feel that there is hope so that their co-operation can be assured. Otherwise, the situation of prison officers could become most vulnerable.

Wherever possible prisons should not be divided for the different phases, though with some prisons it will not be feasible to have all phases owing to their smaller size. The whole atmosphere should be one of hope and encouragement and not cynicism and condoned apathy, the worst enemy of all rehabilitation.

Special prisons will be necessary, we think, for motor delinquents, and we refer in this regard to our proposals for alternative services.

Much as we regret the present horrible buildings, we think it is the spirit in a prison and not the form of the building which is more important—somewhat helpful as modern buildings may well be.

Prison as Social Manpower Centre

We see prisons similar to those mentioned already as a community powerhouse of manpower and energy to help the problems of the wider community and as the living part of the rehabilitation under Phase Four. I hope that the time will come when one can attach to prisons some form of child care and service that appropriate prisoners can participate in, and enabling prisoners to take care of the old people in a community and help in playgrounds, etc. This applies in particular to motor offenders in regard to safety and road victims. This part of the rehabilitation, in Phase Four, is for those who are considered already to be in Phase Four or near Phase Four when they come up for judgment. It should be feasible to give them a training period and then an opportunity for alternative service. For instance, the services of a capable doctor who runs over somebody with his car while drunk would be much better utilised in a responsible though humble capacity away from his normal comfort in some stress area of society where his services are especially needed than making mail bags. This alternative service idea, initially used for conscientious objectors, can well be applied—however, we think not without training where necessary. It should not be a cushy job for these people, but enable them to serve and thus come to appreciate and to understand society better.

To Sum Up

If people leave prison in Phase Four or towards Phase Five, prison should have become a friendly institution to be helped and to help in time, so that one can fall back on it when it is most necessary, when the four crises every prisoner goes through in some form or another confront one. This is usually not during office hours, but at night and on weekends, when no Probation or Welfare Officer will normally be in the office. A prison staff is there 24 hours a day and only a 'phone call away. It is exactly this 'phone call to a person one knows and trusts, who doesn't moralise but is willing to help one over that very moment, which makes all the difference.

On the other hand, once Social Rehabilitation is accepted, it should no longer be a matter of shame to have been a prisoner, *if* one has grown beyond it. As with mental patients nowadays, we can help prisoners to get over their social under-development (in most cases). Why then should one not be grateful for being helped to grow up socially in prison? Is this not the best safeguard for society?

And those who are the few, comparatively speaking, the *real* criminals, once the inadequates are out of the way and the prison population reduced to reasonable size, is this not the one challenge, to get at them, with the men and resources then available and, if at all possible, to get them out of their attitudes as well—or, if failing, to safeguard them properly?

Prison will only make sense if there is a toughening up, on the one hand (for those in Phase One), and, on the other, if prison becomes a real friend (for those in Phases Four and Five) dependent on the man himself, and if there is a really decisive programme for the social inadequates who are "stuck". All the way through, prison must be a training place enabling people not only to discuss aimlessly and eternally what they know, but by teaching giving them the knowledge to understand their own type and that of others, as well as to think and act logically so that they mature socially. This, and not psychological frills, won the day in Wandsworth.

Appendix

The Phases

Phase One. In this phase, men are aggressive to staff or other prisoners or themselves. Their behaviour is clearly anti-social, psychopathic, and hostile.

Phase Two. This is the normal state of institutionalisation and state of Arctic night which seems to be the climate of most prisons now, of apathy and minimum assertion, weakened further by fake "cosiness" of surroundings, television and cocoa disguised as group counselling, making the prisons clearly neither purposeful from the old-fashioned attitude of being tough to them, nor useful from the modern point of view of helping them to grow to social rehabilitation. But more or less the apathy produced is the means to govern them easily with the minimum of trouble by making them semi-sleep-walkers as far as their minds are concerned. The argument that this should be as similar to life outside as possible is utterly fallacious. No prison ever will or can be. Thus most prisons and many hostels are now in Phase Two themselves. Small wonder, so are the inmates and staff in their actual behaviour. Equally small wonder if there is little hope for rehabilitation if people come out worse than they go in.

Phase Three. This is the principle of alerting the man, of making him active again, or, for the first time in many cases, of stimulating him and of training him in social education (as done in Wandsworth Prison until it was stopped) by training prisoners through a course of sessions and discussions; by allowing them to feel that they participate in the rehabilitation of not only themselves but of prison itself; by giving them a foretaste of the difficulties they will have and the chances they have to help each other; by letting

them share in these chances so that they are prepared for the outside; by appealing to everything that is reasonable in them; by encouraging them not only to take but to give to society and avoiding them becoming demoralised and self-pitying; by helping their minds to free themselves of the darkness surrounding them; by, at the same time, helping their families to appreciate that the wives can be attended to not by charity but by self-help and that they can help through their own example of behaviour and suggestions of improved legal and other steps, which may help others coming after them. To produce such a spirit of hope and courage logically is important. But, if there is not a first part of identification with others—which is a moral principle to be lived through—this will still be in vain. Hence, the necessity for moving into the fourth phase.

Phase Four. This is the phase in which the prisoner will be in and out of prison, it is hoped; and prepared for release through the training he has had in the third phase and the experience he has had while still in prison of helping with work outside, such as being linked up with voluntary work and other ex-prisoners outside (see Phase Five), and also through his own work in industry. Phase Four, therefore, is a link up with the outside world in which the prison has become a friend to which people can appeal even when they have left the prison.

The work done in Wandsworth Prison has shown how vulnerable men are when they leave. Even somebody to talk to on the telephone in a severe crisis may make all the difference between harm done to the community and their eventual sanity, so overcoming the difficulty successfully. Rows with wives or bosses, difficulties with the National Assistance Board or authorities, feeling hopeless and fed up and lonely, any such problem can lead to the man throwing overboard his principles and hopes, panicking, and going back into the criminal underworld, accepting thus failure to make the grade. It is always essential that this fourth phase be based on a firm understanding of the third, including the four crises which affect every prisoner leaving the prison. Then he will know the symptoms and difficulties when they arise and be prepared for them.

Social Rehabilitation v. After-Care

The reforms of the "Acto" Report on Probation and After-Care are certainly a bigger change than many can realise yet. However, some of the decisions having been made, every help should be given in order for it to succeed if possible and to be dynamic enough to improve or alter as the situation arises. It must be regretted that the overburdened Probation Officers who have not so far concentrated very much on the recidivist, who is so different from most probation clients, are now singly to handle this very different problem—in character as well as in degree at least.

In order to give this new scheme a real chance, it must not start only when the man is due to go out, the worst of all times. "After-Care" should be scrapped as an idea and even as a name and replaced by *Social Rehabilitation*, a general name for this "Pre- and Post-release scheme", showing in this way the continued comprehensive and logical process to take place from now on.

For this, not only prison staff of all grades (including, of course, Directors and Assistant Directors) should be trained in group work, but also Probation Officers now trained only as case workers mainly, not psychological methodology, e.g. Tavistock, L.S.E., etc. In order not to overburden and, indeed, endanger the present probation services, it seems self-evident that:

(1) If special Prison Officers can be trained as full-time Rehabilitation Officers, and each Prison Officer now should have a share in it (Resolution 8 of the Prison Officers' Annual Conference) as suggested before, then rehabilitation could start—not when the man leaves prison but could run throughout the whole stay in prison and go straight on outside afterwards. Any break is a waste of most valuable goodwill nobody can afford.

(2) Probation Officers must depend to a great extent on real information from the prison on the man's personality (typology) and the phase in which he finds himself when leaving. This is only possible if Prison Officers who saw the man 24 hours a day get the information throughout. Since the 11 plus exams are no longer considered sufficient evaluation and future Prison Governors are not only interviewed but also put through a Country House test, so a considerable weakness must lie in merely evaluating a man in one or two interviews—even if this were feasible. Few people have X-ray eyes.

Hence, training, the typology and phaseology via Prison Officers is essential so that the job can be done; not only to evaluate but also to help prisoners to know where they are and how to get over social inadequacy in group work.

(3) Any person dealing with severely socially handicapped ex-prisoners will agree that many severe crises take place at late hours, at night, and at weekends. Here, it seems essential that ex-prisoners can reach, at least by 'phone, a sympathetic Prison Officer of the Rehabilitation Centre. These contacts would strengthen and liaise with the Probation Officers and any other appropriate Department in emergency conditions.

(4) Equally, Probation Officers could liaise with the Prison Officers who dealt with the man previously in prison, if they found him unco-operative, to see that previously established good relations would enable a transfer of goodwill and, if necessary, common sense to the prisoner.

Prison Officers, unlike a number of (not all) Probation Officers, do not yet feel they are middle-class professionals, but good working-class men. So, they may sometimes not only have years of understanding of the man, but can also speak better "to their condition". This, no doubt, may go also for many Probation Officers. But, the prisoner has lived alongside the Prison Officer who, if properly oriented and trained, will often establish a bond which should not be lost.

(5) Rehabilitation must include the family, previously left out of any scheme which has been drafted. The experimental Prisoners' Wives' Group we helped to start will be of value here for advice and help to self-help and group help. Prison Officers, as well as Governors and Probation Officers, should help and be helped by these most valuable groups.

(6) Other groups like Recidivists Anonymous, i.e. an ex-prisoner group helping others (a pilot project running now based on the former Wandsworth Scheme) can be of great use because the Wandsworth H. and K. scheme has shown:

- (a) Only 20 per cent have a functioning wife or a family of any sort.
- (b) No associates belonging to a much higher peer-group can share their lives with them. This often breaks down. It must come from their own group. To estrange them from other ex-criminals will often not work for long. Who are they to mix with? Who will welcome them as equals? Is it not more important to enhance the whole group rather than isolated individuals?
- (c) Hostels under do-gooders are not the answer for men in most phases other than perhaps at the worst helplessness who need a "Dad" and will settle down to him easily. They are accepted by men because of advantages, often at the price of humiliating discipline widely different from their real attitude, e.g. if a lonely man gets drunk because he is lonely and goes home this is his affair. In most hostels he will be thrown out in haste. Drinking is often loneliness and failure compounded. To deal with it more than moralising or a doctor is required; to overcome failure and hopelessness can be done through the group. Here, a committee of equals trained for it properly will do better than the best social worker using case work methods and not aware of group work methods. These could be learned by any intelligent and well-meaning ex-prisoners (who would have proved their value in and out of prison by their actions).

(7) Couldn't the Probation Officers also avail themselves of group work? It will allow them to help, advise and control better those who cannot yet (if ever) leave their sub-criminal peer-group (because it would make them complete isolates instead, often still incapable of making other relationships). It would allow Probation Officers to see clubs spring up of such men. There are obvious dangers if the club has no strong and *social* purposes chosen by the men, e.g.:

- (a) To help each other to go straight.
- (b) To show the public what they can do as ex-criminals—how much they have become positive non-conformists who want to give, instead of either negative non-conformists or conformists who wish not to take but also not to give.
- (8) Care must be taken to bring the Probation Officer as fully as possible into the *orbit* of rehabilitation. If the man is to come out in a low phase, it would be wrong and silly to get him a job. It is unlikely that he will be able and/or willing to keep the job. This can only have a frustrating effect on co-operative employers. The man must *then*, outside, go through the rehabilitation process not undergone in prison, e.g. via a sheltered workshop, or, in cases of severe institutionalisation, go through a period of sponsored hostels—a fat old Irish Mun is often much better than the best Tavistock trained Warden.

Only when the Probation Officer has learned to see the four crises safely overcome by the severely handicapped man should he free him for normal employment. Until then he needs all the help that can be given to him to compensate for the harm done to him in prison and before, in order to break the vicious cycle, i.e. back to prison again to come out even less fit to stay out than before. Successful ex-prisoners can be of greatest value here.

(9) Here the proposed Land Army would be, of course, of greatest value.

(10) In view of Parole sooner or later becoming a logical *must*, the steps proposed here will become even more important.

Staff

A problem may arise with staff (senior officers as well as others) in that they may feel very insecure with the changes proposed and may prefer to use the medicine they know, though it doesn't work, to any other in case it involves them in more work, rethinking, and may possibly prove useless anyway. So far the training of this type of staff which we have undertaken—with Police, Prison Officers, Teachers—and during visits we have made to Approved Schools and Borstals, as well as discussions with Probation Officers and Youth Officers—has given us the impression that there is both a reservoir of goodwill and a feeling of dissatisfaction with present tools, great enough to compensate for the anxiety they may feel about trying new approaches.

We would suggest that nothing will convince these men and women more than pilot jobs and applied training systems, with full discussion of such proposals as these, including the changes and improvements they may themselves want to propose. The great value of this paper may be to provoke intelligent argument. The fact that we deal with so many different fields enables us to see this whole situation more clearly than anyone in a specialised field. What seems self-evident to us is that if this or any other such scheme is to succeed, it must be based on group work. This is little utilised in this country, and is not to be confused with group counselling and group therapy.

A training system which would allow those employed to train and then return for more training, if necessary, would be invaluable, especially if this group work training could be integrated with personnel and management training experience. We think there is a strong case to be made for those specialists who wish to remain in their own particular field, but an equally strong one for those who feel that their experience in handling human beings will enable them to do another job—given a limited amount of further training—having the advice of those of their colleagues who have remained in the field for a long time and transferred.

We believe that apathy is no respecter of rank, and that it attacks the higher ranks in the Approved Schools, for instance, as much as the children. It may not be apparent at the surface because of pre-occupation with various activities, and sitting on committees; but it seems clear that the staffs of these schools would benefit greatly from further training beyond the occasional somewhat inbred refresher courses, which a few are seconded to, usually within the same service with the same people.

We suggest that there should be an interchange of staff (on the basis of the present exchange-teacher system with other countries), in which the staff of Approved Schools are exchanged with the staffs of schools run by the Local Education Authorities.

If a comprehensive scheme of interchangeability for all staff working in community relations and social work could be achieved, within the framework of the Home Office alone, it would be a great encouragement for people to give of their best and to continue to study and keep up to date. This would be a valuable force against institutionalisation at all levels and counter the idea that the only good civil servant is the safe one who avoids innovation as far as is possible.

The importance of human relations and of leadership has been accepted now in industry, and we think that the technical know-how of each service is not really so great that an intelligent person cannot learn it quickly. (The writer was once responsible for a very complex service of over 120 welfare workers of 16 countries after the war in the United Nations. It was quite astonishing how well work proceeded if people had basic knowledge and experience in handling people). The whole field of Prison Officers, Approved School Officers, Borstal staff and the huge reservoir of Police Officers and those in allied fields—Mental Health Officers, Social Workers, Community Centre Workers, Youth Service Officers—seem to be ideally appropriate for exchange and the enrichment which may come when people from other sections of the same work meet to discuss common problems. It could reasonably be anticipated that there would be an improvement in both the level of recruitment and the morale of the services. To be able to transfer from the youth service to some other branch, after a period of years, is clearly desirable and this also applies to all branches of the prevention services.

A major central effort would be necessary to maintain high standards and to encourage all those who wish to enhance their knowledge and experience. Carefully prepared training programmes utilising group work theory would seem to be the first step.

The Need to Work in the Criminal Sub-Culture

We think that, quite apart from the scope of the straight statutory workers (Police, Probation Officers), there is a considerable need for work on the criminal sub-culture *outside*. The human (like other animals) is different in captivity than in the Zoo. The real results are to be obtained outside prison.

Criminals are in need of help, or at least somebody to talk with and brag to, especially if they don't think a person is a snooper (and such a person would be free to use discretion if no very serious crimes come to notice). If these men (or women) would help to improve and enhance the social climate of the criminal class, it could help considerably. Many criminals (active or temporarily retired) will give aid to some such efforts. We see this work primarily concerned with:

- (a) Fighting attitudes of violence by showing the old criminal's contempt for the knife-boys and gun cow-boys.
- (b) Helping to fight against standover people, those who frighten and bully the inadequate border-people into crime. The Mafia type of protection gangs can become the basis of crime empires.
- (c) Fighting against the vicious thug and the vicious pimp. Both are looked down on by the criminal, but the new breed is feared nevertheless.

All these are people who are potential empire-builders in crime, trying to make it more and more efficient, almost always with, or near, violence. Thus, an anti-crime worker like this, who would know the underworld but would be trusted, could become a great help to both sides—the "honest" criminal and respectable society.

But, perhaps the most important asset might be to have such a section dealing only with those men who wish to become criminal leaders and, having the full benefit of good legal advice, can cock a snook at the law. There is a need to make them lose face with their sub-culture. They are often not popular but feared. To get at any form of over-loud attitudes would be essential, mainly by making their potential associates insecure by letting them doubt their strength, feeling that they may not be able to get away with it.

Many layabouts, now on the way to becoming pimps and drug-addicts, and infecting others in turn who come for the thrill, also need attention; especially those who have no visible means of support. Before the law itself needs to come into full action, like Borstal, prison, etc., these people might be put under legal restraint to leave the dangerous city areas and "persuaded" or put under probation if they would reside elsewhere. Often these are the ones who have been persuaded and persuade others to break into crime, drugs, etc.

The kaleidoscopic mess, say of Soho, Chelsea and other places, has pretty poisonous specimens who will need attention sooner or later. To produce a case against even well-known types would cost police too much effort; besides, it may not yet be necessary. The trained community workers dealing with the area, willing to help, to "fix" minor favours, to be trusted not to make unnecessary trouble and be discreet on all but really very serious matters, would be most useful.

Two Pilot Projects

Hence, we would like to propose experimentally two areas for specially trained community workers to go into action. The first part would be a thorough survey with the help of all concerned. These persons must, of course, work openly and be a kind of liaison with all sides (e.g. street-corner workers in New York, but on different lines).

We think that such work may help to prevent crime where the police cannot yet work. The chances of success of such a government sponsored worker or one employed by an outside body will depend on how much trust in him the authorities and criminal sub-culture would be able to develop.

Based on the findings of the survey and not before, the work should be organised quite openly, but not as work in an office. The person concerned should move around freely and be a trouble shooter—looking after dependants of arrested people, if necessary, and any other human tragedies or near tragedies. The quicker these people become an accepted institution the better.

EXAMINATION OF WITNESS

597. *Chairman:* May I start by thanking you very much for coming to meet us. We have here today about half the total membership of the Commission. We have received, of course, and read your extremely interesting paper entitled "Centre for Group Studies", and also seen a copy of a letter you wrote. We know about the distinguished work you have done and are doing. What we would like to do today is to fire off a certain number of

questions to you for further explanations, to carry some of the things you have said a bit further, and to give you an opportunity of adding anything you would like.

I ought perhaps just to say that this is what we call getting oral evidence in private and therefore we have not got reporters and the public here. We have asked witnesses generally whether they would prefer that the evidence they give us should be private in the sense that it

would not be published, or whether they would have no objection to it being published with the records of the Commission. If they say yes, they have no objection to it being published, we still reserve the right to decide whether in fact we will publish it or not. There is another alternative which is that we can publish it with the exception of those parts that the person giving it to us prefers not to be published. So they are really the three alternatives. Would you tell us which you prefer?—*Mr. Hauser*: I have no objections one way or the other. Anything I have to say here I would presume I had said possibly before.

598. Thank you very much indeed. There is just one point I would like to make. We have very, very wide terms of reference covering the young offender and the adult, and I think you have seen them. Prevention does not come right in the middle of our work. On the other hand, as you can imagine, we are certainly interested in that, and it has an impact on almost everything else. The young offender we are not dealing with specifically at this stage. We are concentrating on the adult offender, in particular with reference to prison treatment, but the adult, we find, is bound to include the young adult. If I may fire off with the first question to you, I think you told us, somebody told us, and I think you did, that you had sent this paper at some point to the Home Office?—Yes.

599. I would like to ask you whether as a result of that anything has happened, or there have been any reactions?—Not really, Mr. Chairman. With the Home Office one gets lots of paper, letters, and kind courteous little notes, but if I may be impertinent I would like to repeat what I have said before, that the Home Office is very progressive provided nothing alters. I have sent it to Ministers. Nothing has happened. The Prison Commissioners, of whom I had the pleasure and honour to address a group a few months ago, again wrote me a very nice letter on which nothing will happen, very courteously worded as is usual.

600. What group?—All the directors as we call them now, under the chairmanship of Mr. Gwynne.

601. *Mr. Justice Edmund Davies*: I would like to start by asking Mr. Hauser this. We have been told that he has been in correspondence with the Home Office about some of his—I quote with accuracy—his plans. Would you tell us your plans please?—We have proposed a number of steps to the Home Office arising out of the H. and K. scheme in Wandsworth Prison which started off with the full approval of Sir Lionel Fox, and which later on was, as the prisoners put it, “de Hauserised”. The point is that we have approached the Prison Commissioners, we have approached the Home Office. The Prison Commissioners turned it down. Then I have written to the Prison Commissioners pointing out the dangers of following up their own policy which is always the same, variations on the same subject, and the necessity possibly to take another view again. I approached Sir Charles Cunningham a few months ago now to try to get something done, but this is not yet decided, and the answer is supposed to come this month.

602. *Lady Wootton*: Could we know what sort of “something”? We would like to know particularly what is was you wanted them to do?—The establishment of a similar scheme to the Wandsworth comprehensive scheme. The Wandsworth comprehensive scheme only had one phase of the five phases we have suggested, and it was not possible since Sir Lionel Fox had died to carry on with this, in fact it dried up, and the scheme is now non-existent for all intents and purposes. We want the Home Office to put it in again, to have the proper phases which we have proposed in this paper, and to enable the prison officers to do a certain part of the job, namely to sort out the prisoners.

603. If I might interrupt, what you wanted done was the prisoners to be phased in terms of your typology, is that right?—That was one part, and the other part was that we think the prisoners are there to a great extent because they are socially under-developed, and therefore we think we could train them as we have done in the education scheme, the Socratic system of training giving them information as

well as discussion, trying to link up with the wives.

604. If you gave them information as well as discussion that would be an improvement on Socrates, would it not?—We do not try to improve on Socrates, but we think that is something which can follow.

605. *Mr. Justice Edmund Davies:* What are the plans? Supposing you could carry out the plans, the practical steps, would you give us a summary of what it involves?—I have addressed it to Sir Charles Cunningham, I have put forward a further detailed proposal as to any plans if they were to give us a prison where this could take place. Firstly, we ask again, but they did not do it last time, that the research department of the Home Office should be entitled to check the matter from the beginning, and this was turned down three times by the Prison Commissioners.

606. *Chairman:* Check the progress?

Lady Wootton: Evaluate it?—Independently of us. Everybody loves his own brain child very much, and therefore it is better that other people do so, so that one can say that this is good, or this is bad, without saying that a negative result may not be very useful for the future in the pilot job to know what to avoid. We have proposed that the prisoners should be sorted out. We have asked that the sorting out should be brought into consideration in any potential parole scheme if ever that came into being, to give facts on which parole can then be based more logically. We have asked for it to be allowed that these prisoners help in the community because we think the prisoner could come out of prison with more dignity and not with less. We ask that the prisoners' wives scheme should be included, and that the children of these prisoners who are in care should get the sort of attention which will prevent their being isolated and further endangered. We have asked that prisoners should be allowed to work. If no work can be found generally it should be for at least the last six weeks, because it is extremely difficult for a man who has been forced to be lazy, especially if he was lazy in the first place, and he comes out, and the noise

apparently is worse for them than the actual work, and the fact that they have to work with people freely. This is where we made proposals which we do not think cost any money. We ask specially to be allowed to train prison officers whom we consider to be in a key position, and we have implored to be allowed to do it this time and not for it to be achieved by the professional people who took a poor view of our activities. I mean the psychologists and others who are in favour of group counselling. We especially made the point that we think a prisoner must not have minimum tensions, just a featherbed, and then the people disappear and so it is extremely difficult for him when he comes out. Through group counselling it is getting worse so that they have a cathartic effect and complain about the tea being cold and wives not having written and so that the tensions in the prisoner become less and less. On the contrary we want them to be stimulated and made hopeful and interested.

607. *Chairman:* For my benefit as a layman could you expand a little bit on why group counselling is contra-productive or unproductive?—I would say there is a place for group counselling in certain circumstances, when the tensions of people are very high, and one wants to bring them down, but we think that it is important with the prison where so little tension goes on, which is so unlike outside life—similar to the mental hospital in this regard—that this should be speeded up and stimulated, so that the difference between life in there and the life outside is not too great.

608. *Lady Wootton:* Why should not group counselling be stimulating?—Because there is not enough in it. To stimulate one must feed them some grist for their mill. If they have done it for the tenth or the twentieth time they have said it all, and they talk about sports, they talk about anything. The idea of removing tensions we think is not best for all, but it is best for the extremely aggressive disturbed ones. In the beginning group counselling may have a place.

609. *The Hon. S. Silkin:* Is there not in the nature of the discussion in group counselling, as I think many of us have

often seen, a really tough approach to one another's attitudes and problems, tough even in the face of resistance by the individual himself?—This is so very often at the beginning, or if visitors are present, but generally speaking group counselling sessions, not just in prisons but in other places, taper off very quickly, whereas we think when you train them and give them enough information to deal with the problems the discussions must become more and more interesting, not less and less.

610. *Chairman:* Could you help me on the kind of information you are thinking of when you speak about giving them information?—Giving them a training course, my Lord, the same training which we give in about 100 schools, and this is a system of social education which we find useful in so far as it enables the people to handle general conditions better, to understand much better what goes on around them. I would not say in them, this is a very much more complex matter.

611. Do you mean factual information about the social institutions among which they live?—That is more or less true. There are generally three types of groups, three types of leaders and we have a scale of social age where they evaluate themselves, with all kinds of groups of other people, and finally they come back to themselves. This scale shows the violent person having a social age of between four and six. We do not come in and fix it, certainly not for individuals, but they told us that there were two things which they found most impressive from their point of view, which they never forgot, and one was this social age in relation to their attitude when they go out to do a job and are willing to hit somebody who hinders them from running away. "Four to six" takes away a picture which is still attached in their minds to crime.

612. Did I understand you to say you do not fix their social age but they fix it for themselves?—It would be useless if we did it.

613. It would be useless if you fixed it?—It is entirely up to them, and that is why I have used the word "Socratic".

614. You mean attempt to give them the information on which they can assess their own social age?—That is correct. The other thing they find most useful from that point of view is the question of guilt, the fact that they do not feel guilt. I would not say that most of them do not really feel guilt, but that it is much more shame towards one's fellow man. Guilt is very often a prerequisite to some higher form of religious belief, etc., and this they do not feel in most cases. I am talking about many groups quite independent of each other, and this is different from guilt, "I have done this". They accept that they have done it with the feeling of guilt and punishment and all the other repercussions in this philosophical concept. . . .

615. You draw a distinction there I imagine between guilt and shame?—They find it helpful, because as one put it succinctly, "When I did wrong the first time as a boy there was no thunder and lightning and I was very disappointed because I thought I should be punished but nothing happened".

616. *Lady Wootton:* You speak, I think, about local experiments in the end of your paper and you want to deal with two areas where specially trained workers would go into action. I wanted to ask two questions, and the first is have you any actual experiments going on in particular areas? The second question is this. You refer fairly often to specially trained workers; what is the peculiarity of the training that you envisage? We have trained workers, goodness knows, endless kinds, and this is apparently another kind. How do you train them, and in what? Could we have both those? Are there any practical experiments?—May I answer the second question first?

617. Yes.—We think training in group community work should be given to people in addition to any other training they may have.

618. What would they learn?—That there are three types of groups, three types of leaders, and to understand what are the tools they can use. It is basically exactly the same course as the one we give to prisoners, mental patients, school-children, etc.

619. Could we name some of the tools? —For example, how to find out what types of groups to have; where to work, which is a very important tool with ten degrees of apathy, which we find very important because working does help, one does not feel so helpless; how to get people to act off their own bat without forcing them to do so or pushing them; how to use other tools like this question of social age and personal age; the question of phases which I mention here, the question of the crises which come to people when they leave an institution; the whole question of institutionalisation. These are some of the tools, and I can provide a syllabus if this is wanted. We are very keen to have this in fact applied in schools as part of the normal education.

620. *Chairman:* You could supply the syllabus?—With pleasure. We are particularly anxious however, that this should be given to the so-called amateurs, because we think the community is not an affair of the professional only and one should not produce yet another hunting licence, but what one should do is to try to enable people to deal with social problems. We have found this in one area now in Manchester where we are beginning a fairly big scheme. There are two areas. One (in which it was suggested we could do something in this sense) is Ardwick, which is a very bad area which is now razed to the ground and two-fifths of the population are having to go to Newton where they will be re-planted. Another is Withenshaw, which is a very pleasant looking area and has the highest crime figure I understand too. We could not find any preparation whatsoever going on anywhere, though there may be, for people who are being transplanted from one area and drawn into another one, neither in the schools nor anywhere else and this would produce a lot of crime by itself without any help psychologically and with other complications. This is the hypocrisy, that so often afterwards people complain about high crime figures when nothing has been done about obvious prevention which is necessary. With the help of the Lord Mayor of Manchester and the chief of police, the chief constable, and the chief education officer we are

hoping to start a scheme there to work out new tools (again if we are lucky) to see what could be done before these youngsters and the families leave there, and after.

621. Before they leave their old area?—And after when they have arrived. We can only produce pilot jobs, but it is a strengthening of the people themselves. This cannot be carried out by social workers, and if it could be carried out by social workers I would consider it wrong.

622. *Lady Wootton:* You keep saying "we". We want to know what we should do for the people before they leave and the people after they have left. "We" is clearly not social workers. Who are "we"? Who is actually going to do this? It sounds to me very like social work of a particular kind, but you said they are not social workers. Who is actually to deal with this? —Certainly we hope it will be for the professionals, but I would not say social workers. I think that it should, to a great extent, be a matter for the teachers to be trained. We think it should be a matter for the police to be trained, because the police are the only people nowadays who know what is going on in the community, and the others are milkmen. I am starting a training scheme for police in these two areas by approval of the chief constable, because we find having done similar work in London that the police are most helpful and most anxious very often to help to find out what is wrong, and not just to be what are called stretcher-bearers after things have gone wrong. The whole of most of the social machinery is based on waiting until the youngsters, or man or woman falls foul of the law and then something happens, which is far too late. I hope Mrs. Serota will not disagree.

623. *Chairman:* The police and the milkmen?—The milkmen know when the milk has not been collected there is something wrong.

624. And also does the milkman gossip occasionally with the people in the house, and does he stay and chat or not?—So many people really do not know their neighbours, and this middle-class attitude has been encouraged, and the loneliness cannot be compensated for. This is what

I mean, Lady Wootton, by the professionals. The community itself, would need to be trained, trained people in the community, and find them doing service.

625. *Mr. Justice Edmund Davies*: Could you give heads, without going into great detail, of topics of training for policemen?—We give them exactly the same training as the others. It is the one and only course which we give to whoever is fortunate enough to have it. It is the same syllabus I mentioned before. We also train them how to observe, which is very important.

626. *Chairman*: Shall we see a little what this means if we look at your syllabus if you sent it to us?—Yes, that is the same thing. We hope the Ministry will accept this for the so-called Newsom children.

627. *Mrs. Serota*: The main function of Mr. Hauser's institute is to mount these pilot schemes, going in, training, and then withdrawing from the situation. What I wondered would be his experience of the effect this has in terms of lasting and developing and growing out?—If I may say so the purpose of the whole thing is that we do withdraw the quicker the better, once the thing is halfway through, because otherwise one can never afford to withdraw.

628. *Chairman*: If you stay in too long you never get out, is that right?—Yes, and in many ways the question is, does it go on without us and do people forget preferably that we had much to do with it which is the symptom of their identification with it. For example, there are, in the London County Council, a number of schools, especially one school where it is now the school model and the London County Council is very satisfied with it. This somewhat coincides with my views as I started it: but it is their property, and this is good; this is as it ought to be, and it goes on without me. It must, otherwise it is useless. This is unfortunately not the case in prisons because we were never allowed to put the whole scheme of education into operation, and this is a pity, because the prisoners, as I have pointed out, have been allowed to go out for four or five hours every weekend and do work for children's playgrounds, for old people,

etc. And in all this time they went unguarded at weekends and not one of them has run away. It has also partly solved the problem of meeting their wives informally.

629. Was this unpaid work?—They ask no compensation for whatever form of work is given them, on exactly the same basis as they make toys today. That is one of their conditions, and they are desperate for dignity. A prisoner loses his dignity. We think we should enhance that dignity. They cannot do it themselves, and as they cannot do it individually they can do it very often in a group. If I may widen this, we think the only way these people can become mature is through responsibility. Responsibility gives dignity, and this is exactly what children today and prisoners and others cannot get. If we can get people together then we are in a position to hope that they will grow—if we do not force them to do it of course—if they are doing it voluntarily. This, we think, plus a better understanding of others and themselves—these are the two main criteria of our work.

630. *Mrs. Warburton*: How long was this weekend working going on, of what type was it, from which prison, and why was it stopped?—It was done for the better part of four or five years. The work really was either done through the International Voluntary Service or the Quaker Voluntary Services or similar bodies. It depended therefore on whether they had any work or not; how many people they could take; and they always mixed with young people—almost always that is. The type of work was very different and was always something which was not paid for. It was normally groups of three, six, twelve, fifteen, twenty, and there were no guards. That was the condition I made, otherwise it would not have been genuine. There were no guards whatever.

631. *Chairman*: Was this all from Wandsworth?—This was all from Wandsworth, only from the H. and K. Wings. But no prisoners were sorted out and they were not particularly good prisoners. The only decision they made was they could do nothing for sex cases; they were nervous about them. They did a tremendous amount for the morale of the prison.

Why it was stopped is part of why the whole scheme was stopped. I can give an explanation but there is no reason I feel. The Prison Commissioners bragged about the scheme in a number of reports; they praised themselves saying what they had done; but since Sir Lionel Fox died the situation has changed.

632. Why do you think that was?—If I said the truth it would be libel. I think the point is. . .

633. We must leave it to you what you say.—I have said it to the prison directors themselves, so I can repeat it perhaps. I do believe that they are very good kindly men, and the chairman is a good personal friend of mine, but administrators never like reform from the Maccabi onwards—not that I would put myself in the same class—but they want to have a tidy prison, and any reform is always untidy. It has to be because it is new.

634. I think you said they were rather proud of what was being done in some areas. Then why did it stop?—The whole approach of professionalism and social organisation, so to speak, is to put psychiatric social workers in instead of guards, as Mrs. Morris has put it. And the whole professional approach is the opposite of what we believe in. We do not think there is a place for psychologists here. We think this is a social matter primarily and not a psychiatric matter. We do not think most people today are mad or mentally retarded. There are a few per cent that should not be there—recidivists, I should say. This whole philosophy is the philosophy of making prisons receptacles for people where much work needs to be done, or a place for lazy people where every time they come in they will go out worse; and, if I may digress for a moment, I am most grateful for having the presence of Mr. Justice Edmund Davies because without his sentences the Prison Commission would never change in 100 years. You cannot keep 30-year men, who have a lot of money outside, in dilapidated prisons where everything hangs together by the courtesy of the prisoners.

635. *The Hon. S. Silkin*: Can I follow up what you were saying about types of

criminals. I think it would be right, would it not, to say that the scheme that you put in front of us is based on the proposition that at any rate the preponderant proportion of habitual criminals are people who have this social inadequacy, as you put it yourself, because they start off as children who feel themselves to be failures. Then you say crime is the creativity of the negative non-conformist; and you follow that up by giving the proportion that 70 per cent of the recidivists are in this category. Would it be right that the scheme is based upon that assumption; and, if so, from what do you derive your assumption as to the cause of habitual criminality?—I think I have mentioned that the opinion of prison officers and governors independent of each other in different groups has always been that in maximum security prisons only 3 to 5 per cent of the prisoners in these prisons need maximum security. I remember one case where somebody said 10 per cent and the others laughed. Therefore nine-tenths of these are not in need of this treatment. The opinion of 60 per cent to 70 per cent you referred to again is not only mine, but is the result of asking the people concerned, those governors with whom we work, prison officers in different groups not knowing each other and the prisoners themselves. It is also the evidence that every time there is a mass escape—as last time and time before—it is only a very small number of prisoners who avail themselves of these opportunities. Last time four went away when 14 of the worse escapologists had a special watch. Four went away and the other ten could not gather the strength to use the opportunity because they had become so institutionalised. That is a point that we made to the prison directors, this apathy, and group counselling is wanted for that.

636. *Chairman*: Would your deduction be from that as one thing that a great many more people can be removed from full custodial institutions to open prisons?—I would prefer, my Lord, to say not even open prisons necessarily. They could be made to work in a modern type of workhouse where they are earning money, a kind of Foreign Legion-cum-work camp.

637. Something which can be not quite that, but would be open, something equivalent to one of the present open prisons?—Those who have been a long time in prison could not go straight to such an open place. It would be terrible for a man who has been institutionalised to be given too much freedom because he would not know how to handle it, and it is a terrible thing for people to be given a situation for which they are not prepared.

638. Do you think from the point of view of protection of the public that a lot of those can be moved out, that is, that just from that one aspect, a large proportion could be moved out of the fully custodial institution?—I would say half of the people there, as a conservative estimate, could be put into completely different prisons. I believe the community have more rights even than the unfortunate victimiser, and the victim must come before the victimiser; but I think the dangers would be infinitesimal if it is done as a careful operation and they are not suddenly put into situations of freedom which they cannot handle, which is, in fact, what happens when they leave prison and they are not fit to be out, and every time they come in they are less fit to be out. This is the hypocrisy which we feel is typical of the approach, but as a professional body which I believe spends £60 million per annum, according to Mr. Fairn, £2,000 a year on them and their families. . . .

639. I think we have had a lot of evidence on that point.—The point is to stimulate them, to make them manage outside and to remove this terrible burden of unfitness. A man came to me a few weeks ago and said, "Is there any cocoa in my flat because otherwise I cannot go". This institutionalisation is the worst part of the whole thing—the fact that they are being made to be lazy, helpless, and the families are being destroyed by this, that or the other complications. All this can be changed if you can stimulate them. The best advice we always receive is from the men and the prison officers. The prison officers have been threatening to go on strike, but every prison officer could also have been a rehabilitation officer as well. This is tremendous progress for this body

of men, although it does not mean every one of them is yet at that stage.

640. *The Hon. S. Silkin:* To follow-up this point then. Accepting the hypothesis that this proportion—put it at 70 per cent—of the habitual criminals is socially inadequate and needs the kind of régime you refer to, where in the scheme of things, if at all, so far as this 70 per cent is concerned, do you see the idea of deterrence?—The question is that if a man belongs to a place where he feels happy it is no deterrent. The deterrent lies in the community, Sir. To go back to prison is no deterrent. To go back to prison is to go back to the family where you belong after your holidays. Therefore, for these people, to talk of the deterrent is unfortunate. You cannot deter them. They talk of going back in and you cannot deter them from committing crime because they just cannot manage outside. Again and again we have pleaded with judges to keep the man out because he wants to go back, he cannot manage any more, so if he commits a crime he gets away with it, and if he is caught he goes back where he belongs. If these people could come back straight away instead of passing through the judiciary and the police, they would come back now and they would not need to commit a crime. They have become institutionalised.

641. *Chairman:* Can I follow that point? One keeps hearing this said, that people break windows in order to come back, and that sort of thing. Is the number of people who genuinely want to get back really more than a very, very small percentage of even persistent offenders?—A man is supposed to work when he gets out but he sits in a bedsitter and he knows very few people other than criminals, because this is the only company he knows. He is lost; he cannot work; he can mostly do only unskilled work; and he is lost in the community. Then he gets drunk, and what chance has he got?

642. Yes, I am not arguing against that, but is there a substantial proportion of persistent offenders who, when they are out and find all these difficulties and challenges to which they are not capable of standing up, in fact want to get back? I was not sure whether you were really

serious or whether you were pulling our legs a little when you said that if it was not for having to go through the judiciary and the police they would all go back—I mean this absolutely literally, that last part. I meant it. Again and again I say once they are in prison they are much relieved. I think Mr. Justice Edmund Davies would no doubt have had this experience that people cannot listen to the part when they get condemned, they are so nervous, and they are so upset, and very often afterwards they have to ask the officer what they have got they are so nervous. They cannot handle the situation and cannot stand up to it. As to the other thing I would not say it is necessarily typical that they all throw stones in windows—these are the most extreme cases—but I would say that depends entirely on the phase they come in. For some it is a terrible tragedy to come back because they have tried and have not succeeded. For some it is a risk they have taken, and for some it is a relief. This is dependent on the phase they are in; because if a man comes out in a situation where he really wants to go back then the quicker the better. He should never have been allowed out and therefore the automatic one-third remission makes no sense. But the man who could possibly have managed ought to have been released earlier before he becomes institutionalised, which is important for the question of Royal Pardon or parole.

643. Is there anything you would like to say on the automatic period of remission? I think you are against that?—I think the automatic one-third remission has no logical content, because whatever the man does in prison, with the exception of serious breaches of behaviour in which case he gets condemned again, does not get him anywhere and there is no progression in prison. He may get into a hostel but many people get into a hostel because they have behaved best and many of those who have behaved best have been least touched. If the prisoner knew that there was a ladder to climb to something else, such as training, behaviour patterns, etc., that he had a chance to go out earlier, or alternatively had to serve three-thirds of the sentence, that would in itself be a

tremendous opportunity and challenge to do something about it.

644. What you are suggesting is instead of the more or less automatic remission of a third there should be an opportunity, but a more flexible opportunity, of having the prison sentence shortened?—Or lengthened to three-thirds.

645. Shortened from the full...—Lengthened from two-thirds to three-thirds, and that should depend on the behaviour of the man, and on the work done in the prison, not only that, but the rehabilitation scheme should give the opportunity to follow up enabling him to come out not all at once. This is impossible to do now because the prisons are purely custodial places with many people more apathetic than anything else, with very few exceptions, mainly open prisons. We would say if you could dehydrate the man and hang him up for three years that would be cheaper.

646. Would you say something about open prisons where perhaps the inmate has more challenges, he has to face up to more decisions for himself. Do you consider that is all to the good as far as it goes?—For first offenders I would say this may be a good thing. In fact I would say—I fear many people would think I am a reactionary—that it is not a good thing to go to a new prison at once but it is better to have the shock of the first week to see that this is what goes on and then later on also to allow the man to have a choice. Some people do not want to stay in the new prison and they want to go and run away and forget it all.

647. Would you feel necessarily the prisoner's wishes should be agreed to there? There would be some prisoners for whom the very, very lazy unchallenging atmosphere of a secure prison would be attractive, but it may not be the best thing for them.—I was saying this about first offenders. For other prisoners I think it is necessary that the man deserves to go to the open prison. It should be made a prize and not something which is given to him, and it ought to be a part and parcel of the process. He ought not to wait too long, but he should first prove that he deserves to go there.

648. Can you visualise moving somebody to an open prison from a closed prison when he did not want to go because you would think this chap really ought to be brought up against some challenges and decisions of his own?—I think it is not much good pushing a man into a position for which he feels himself not to be fitted but I would say that I would also give him at the moment the chance to come out earlier. If a man feels, "I can't manage", which sometimes happens, I would say this is an extreme situation. But open prisons in themselves without the scheme of rehabilitation but just giving them freedom are not enough either.

649. No.—It makes it easy to sit there and do nothing more, and I do not see the point of the open prisons other than that they are convenient and people feel happy and they are naturally a step towards freedom because they are considerably easier; but as far as rehabilitation itself goes there is none of this going on as far as I know, though some governors here and there have done very interesting work.

650. *The Hon. S. Silkin:* If you do not entirely rule out but reduce to a very low factor the idea of deterrence for the social inadequates you speak about, can you tell us where you put this factor in the scheme of things generally, how high you rate it as an element in the purpose of the penal system and for what groups?—I believe the deterrent is part of the punishment axis, guilt, punishment, evil, and so on and so forth, and I think that the deterrent for the socially inadequate is very hard to come by. I would say that the real deterrent must lie in his own feeling of shame and the feeling of shame that he gives to his environment by breaking down. When prisoners come back to prison they must feel they have let the side down by coming back and they slink in like dogs which have been kicked.

651. *Chairman:* That is as far as the individual deterrent goes. What about the general deterrent, the effect on others?—Today if you can get away with it there is no deterrent. If you have been caught the deterrent is to be caught. This is not a moral society. This is a society where the absence of crime makes you a good citizen. Therefore the question is

we must try to develop by social education, schools and other ways an attitude where it is not enough not to commit crime in order to be a good citizen but to have an attitude where they want to be morally better. We think we can produce in a microcosm of society things to try out, ways in which these people can be better people than the *petit bourgeois* who does not care for his neighbour. It does not lie in putting people away but in an opportunity to find out what can be done with the majority of people.

652. You say the deterrent effect on others is the risk of being caught, and one can imagine that would be very powerful, the main deterrent. But apart from that would the degree of general deterrence depend on the kind of sentence awarded to people who commit a certain kind of offence?—The length of sentence is certainly one matter, but it also puts up the risk one is willing to take if the price of it becomes higher, and the risk one takes to get out, which is the other side of the picture. I do not believe that people react, that most social inadequates react to deterrence at all, because they say, "I am not going to be caught". No criminal will ever go out and commit a crime if he thinks he is going to be caught, and he works himself up into quite a thing about this. They say, "Today is my lucky day and therefore how can I be deterred from something when I am not going to be caught?" Even if they can get the death penalty they would commit a crime because they say, "I won't be caught and there won't be a death penalty". Therefore the whole idea of a deterrent is a much more mature thing than you find in these people, a more mature approach than you find with them.

653. *Mr. Justice Edmund Davies:* One of the matters we have to consider here is the purpose of punishment. What would you say are the purposes of punishment?—The purpose of punishment is to give satisfaction to the people who punish. I would say to a great extent it is not the punishment of people. I think the purpose of rehabilitation of a man who has grievously sinned, sinned against society, who, therefore, has been considered in need to be "done over", if I may put it in

the vernacular, this is the important thing. I cannot see any purpose with a man who has committed a crime just to punish him if he comes out worse. I think he will come out a better citizen if he is not driven by his sin.

654. May we put it in one sentence and say in your view the whole purpose of punishment is reformation of the offender? —That is a minor part. The major part is to find out why it has been done in this society, to find out if there are not more coming after him, which is not taking place today. Probation officers and others know that there are people in an area where they have caught one man and dealt with him and this whole area is thick and absolutely nothing is being done because there is no authority at the moment concerned with this area.

I can quote chapter and verse in a number of these areas. The youth service in this country does not train youth leaders for 50 per cent failure youngsters. The only youth leaders trained in this country by training establishments known to the Ministry of Education are training establishments for youth leaders for so-called nice youngsters—those youngsters who wash twice a day behind their ears. In a way the same thing happens with these youngsters who fall by the wayside, who go to prison or hospital, and it is an accident which way it goes, and this is where we find the prison can be of such great help, if a man has committed a grievous crime to find out how he has come to this. The environmental factors may have to be looked into, never mind the psychological ones.

655. *The Hon. S. Silkin*: Would it be a fair summary to say that in your view the major purpose of the law enforcement system is to discover the causes of criminality?—And to remove those people who have been infected by the disease of social underdevelopment to a place where they can be repaired, or kept safe, because they are too dangerous to society to be let loose and until they can be let loose they are certainly sick. Society is entitled to have safeguards provided and efforts are being made there.

656. *Lady Wootton*: You are by implication identifying punishment in this con-

text with loss of liberty. You say the community quite understandably has to be protected. Other forms of penalty are used in the penal system, for instance people are fined. Do you apply what you have said to fines, that is that the purpose of punishment by fines is to satisfy the feelings of punishment rather than to produce any result on the offender or the community round him?—I would say that sometimes the effect of the shock of coming up against authority on people who have never come up against authority before is a very salutary one. That can be by a fine and it can be in other ways. We did a survey in Switzerland where we have also worked because we heard the youngsters were kept there a fortnight in solitary confinement and not kept together with other boys. We did a survey and I am convinced it is a very good system and it was the first time these youngsters were given time to think.

657. You have come back to imprisonment. If it gives the shock it is all right? Unless it gives shock you think it is no good?—It would possibly not have any effect, and they would come again.

658. Could we take a hypothetical case? Let us forget the ordinary crime, but take the very large number of offences which figure in the criminal statistics which are committed by motorists. Would you say that if the penalty for parking your car in the wrong place was a fine of £1,000 and the loss of your licence for life that would have any effect in clearing the streets?—It depends how much you can afford a chauffeur and £1,000.

659. I think we know by definition that most people cannot, not most car owners. That is a perfectly serious proposition, and I have put the extreme case. I thought you rather laughed off the deterrent, but if you put a case like that to the ordinary motorist is it not fairly clear that he would be more careful?—I have done a similar thing in New Zealand, and they have accepted it, and amongst my proposals are weekend prisons. They never go to prison, especially motor offenders; they would have to go to the prison hospital and do other work. I do not believe that any motorist can be considered on the same level as the criminal.

660. Why not?—Because he is not necessarily socially inadequate.

Lady Wootton: Nor are all the criminals. The train robbers were far from socially inadequate, and they were efficient professionally some of them. I know there are a great many social inadequates, but this identification of all prisoners as social inadequates I think is very dangerous.

661. *Mr. Justice Edmund Davies:* I am glad Lady Wootton took that up for it worried me very seriously. What is social inadequacy? Failure to measure up to one's responsibilities as a member of a community, is that a definition?—I think this is it. Therefore I would say with great respect that even the train robbers, who I agree are professionals and efficient professionals, and possibly in wartime would be extremely useful for other jobs, are to our way of thinking social inadequates. They would not need to come to this kind of work if they had had a full social education, and we would not put them in as inadequates among the 70 per cent who are completely institutionalised. This is why I said 70 per cent, not 100 per cent of those people who are institutionalised. But the question of helping people out of their social inadequacy, even the efficient ones, is so important because this is exactly what the effect is in due course on the car offender. If I can get away with parking my car here why shouldn't I?

662. *Lady Wootton:* A great many people do.—I saw a lot of cars parked round here today. If you can get away with it today why shouldn't you?

663. I am not arguing they should not get away with it, and a great many people do, and I am not saying they do not get away with it because they obviously do, but I am trying to get to a very simple point. Certain types of penalty are thought to be a deterrent on the community, and I put to you as a possible deterrent that if you or I knowing that we would be fined £1,000 if caught, and a certain proportion are caught, for leaving our cars outside this building which we are not allowed to do, and if we were then to be deprived of our licences for life, I do not think we should do it.—Would it be natural justice?

664. I did not ask that, I asked you if it would be an effective deterrent.—I doubt it.

665. You doubt it?—I doubt it.

666. You are a very brave man—or very rich.—People would still try to get away with it.

667. I am sure some people would. I hear 250 parking cases in three hours, and a computer would do it much better, but the present system is such that I would not hear any less. Do you think I would still hear 250 every three hours instead of dropping to the 20 to 30 who can afford the chauffeur?—This is exactly where the judiciary divides from the sociologist, and you know that better than I, that if there is necessity for pressure at a certain point you may change the pressure.

668. Do you think there would be fewer cases in court?—Fewer cases. I doubt if all the people would stop it.

669. I did not say all people would stop it. Obviously if I had the chance of doing a £1 million deal and I thought I had a poor chance of being caught I might risk it, but ordinary people like us who play a very large part in these 250 cases every three hours I think would think twice. I wanted to know if you would agree with that, because this is a simple case of deterrence in ordinary people.—I would completely agree; in extremes deterrence will work.

670. Therefore we have to work down from some point. Obviously 40s., is not effective.—I am sure you are right.

671. *Lord Wheatley:* I wondered whether it was inherent in your philosophy of punishment and treatment that once a prisoner is repaired, to use your own expression, he should be freed irrespective of the nature of the offence for which he has been committed?—I would be very careful not to free him from one day to another but put in a number of gates, as I think I have mentioned in my report, before he goes out. I want to be sure he is repaired. I would watch him in a situation such as being obliged to live in a certain area away from grave areas of crime.

672. When you come to the ultimate decision that he is repaired having passed through all the gates, then would you

say that that man ought to be released irrespective of the nature of the offence that he has committed?—Yes, I would say so. I would say that of Eichmann too.

673. *Chairman*: Imagine somebody put inside for a very long time for a very great offence, if he responded to treatment and made great progress, and at the end of six months it was thought this person could be released as far as he himself and his abilities to hold his own are concerned, you would be in favour of releasing him?—To take the extreme example which Lady Wootton has chosen to put, if a train robber could go to a leper colony to do good work there I am sure he would be better employed than in the prison that he is in now. I think the opportunities for people in prison are very poor. I would try to produce opportunities where they can expiate or compensate for the crime financially and morally, and morally I think is the more important one still. The men must feel in Wandsworth that it is feasible that they can compensate for what they have done and compensate more than the *petit bourgeois*, the Smith and Jones who do not bother, and we think there is as much hate in Wandsworth as there is potential love.

674. *Lord Wheatley*: But surely this must all be relative? You talk about the man going to work in the leper colony to expiate his crime, but for how long? Is there going to be any relationship between the time he spends between the gates, and his ultimate release, call it what you may, any relationship with the nature of the offence for which he has originally been committed?—I would say that if the man got 30 years, then for 30 years he should be under some surveillance, whatever the position. If the judge says: "I do not trust this man for 30 years, therefore I put him away now, and afterwards other people, with my approval as the judge—because I would also want to know what was going on, from my own responsibility . . ."—I think the judge would always have to be brought in, and not just entrust it to the prison people—if the judge is satisfied that this particular step is in the right direction, I would say yes, but I would certainly

take safeguards. I would however say that, as in Europe, after a while his whole record should be wiped clean.

675. *Chairman*: Taking first of all the point of the judge, do I understand you to mean that before a person was paroled, or substantially let out, even if he was to be under supervision, the convicting or sentencing judge should be brought into it?—Either the sentencing judge, or a special judge if that becomes too much for the sentencing judge. But I think the system of the Prison Department alone becoming the arbiter, with all the hope I have of the Prison Department changing, would not be good; the judge should be the objective arbiter of a situation, because the people involved can get too much involved one way or the other, and the man should have a chance to see the judge himself.

676. At what stage would that be, because your idea is for a progressive series of steps, the man perhaps being put into a fully custodial prison to start with, and then gradually and progressively treated until the time comes when he can float out into complete freedom? At what stage in that procedure do you think it ought to go to the judge: only when the last stage is reached, when he goes home, as it were, perhaps under continued supervision?—This is technically difficult. The judges possibly will not want to have too much of a burden in having all kinds of reports all the time, with the quantity of work they have to do, but in principle I should say there should be a special relationship between the judge, as one side of the case, and the man; the judge should somehow be responsible for the overall situation—not the detail—of this man, and as he has given him the sentence he should also give him finally the chance

677. *Chairman*: I think that is awfully difficult: judges retire, and that sort of thing.

Lord Wheatley: And die.—There is a special judge in Europe, for example in Italy—I started the first system of probation there after the war—there is a special judge who does nothing else but these matters of prison administration.

678. *Chairman*: He will review sentences, then?—He does everything.

679. *Mrs. Warburton*: Then that is completely different from the sentencing judge. A judge doing this particular work does not seem to me to have any parallel with the sentencing judge continuing to be involved in how long the man serves, in what kind of institution, and so on. I do not feel the two things match very much.—I agree.

680. *Mr. Justice Edmund Davies*: Are we perhaps at cross purposes here? You are saying that in Italy there is one judge whose duty is to review sentences, quite regardless of whether he is the sentencing judge?—He is not the sentencing judge.

681. *Mr. Justice Edmund Davies*: Then what is the point in it? There is no continuity, as it were, you are not drawing upon the judge who had a particular reason for imposing a particular sentence.

682. *The Bishop of Exeter*: Is it not your point that you do not wish the decision to be taken by the prison authorities but by somebody outside the prison authorities? It could be parole board or any one of a number of things, but not necessarily a judge or the judge?—Yes, but I think the judges are held in such esteem here that it would be a good thing if they could be prevailed upon to do it, to do the "grace" part as well as the punishment part. It may not be feasible, because of sheer quantity of work.

683. *The Bishop of Exeter*: In answer to a point Lord Wheatley was putting to you, you said something like this; that the judge says to himself: "I do not trust this man for 30 years", and so gives him a 30-year sentence. Lord Wheatley's point I think is that that is not what the judge says to himself, that the judge is saying to himself: "This man's action rates 30 years", I think that was the point.

684. *Lord Wheatley*: Yes, having regard to all the factors the judge may have to take into account before deciding the appropriate sentence. It seemed to me, Mr. Hauser, that it was inherent in your philosophy that once the person was "repaired", then he was entitled to go free, irrespective of the nature of the crime or of the sentence imposed?

685. *The Hon. S. Silkin*: I wonder whether this is not really consonant with at any rate part of what you were saying, because earlier on you were talking about the element of shame as being an element in deterrence, if I understood you correctly. Would you disagree with the proposition that the amount of shame, the value of the shame as it were, depends on what the attitude of society is to the particular wrong that is being done, and what the offender thinks the attitude of society is; and that that can be measured—whether it should be or not, it can be measured—by the degree of severity of punishment which society metes out for the particular wrong?—I think, if I may say so, this is in many ways the crux of the matter, because if you believe that society must require expiation of the crime through punishment, then, of course, there is no argument for whatever I say. If one believes that society has its worst forms in crime, and therefore we must see that this is our own mirror picture, as so-called normal members of society, we must try to learn from these people what should be done about the others, as well as treading them or separating society from them; in other words I think it is quite feasible to make prisoners examples of what should be done in normal society, by normal people under much more normal circumstances. We think these prisoners can be rehabilitated, or repaired, as Lord Wheatley says—it is perhaps an unkind word—developed in a way which is free from punishment *qua* punishment, but as a job: "You have done wrong, we have now done right, and now you have a chance".

686. *The Hon. S. Silkin*: Is there not an almost unavoidable dilemma there? If you introduce the idea of shame at all, is that not really a concept which is quite contradictory to the idea that what you are doing for a man while he is in custodial care is making him a better man and more fit to take his place in society?—If he feels this shame, if he feels outside society that this is a shameful act, if society feels it is a shameful act, then I think we have one function of society. Today we are in a situation of hiatus between our religious values—I

have just spent the better part of a week in an Dominican priory to train them there in our methods; but again and again I think these methods do not work in many cases, and therefore the prison opens up principles of a philosophy of values which can be applied in prisons as well as outside. In prison I think much more can be done, that we can produce shame in prison—you must accept that there is a general subconscious also. The shame culture is coming, it is here, you do not produce it. We had a young man the other day who stopped his own little gang from molesting, or worse, a girl, and he said to me afterwards: "I was ashamed that I felt ashamed"; in other words, he could not be as tough as the others, because he had a sister. Now this shame must be used, and we think this can only be so if people are made to understand and to learn that they are responsible for other people, not by telling them, but by actually practising it, and we can do that in prison.

687. *Mr. Justice Edmund Davies*: Will you help me on a practical difficulty of a judge, Mr. Hauser—and I am not selecting unfairly a type of case one has to deal with, because it is a frequent and deplorable recurring offence: a hulking young man, in good health, knocked down an elderly woman and took her handbag, and, as in a case I had the other day, having had her bag, retraced his steps a few yards and kicked her. When one is presiding over a case of that kind, how should the good judge's mind work? Should he say to himself: "Clearly there has got to be a custodial sentence here, I cannot put this young man on probation. I have decided he has got to go in for some time—for how long?" Should the judge say to himself: "The object, the only object, of sending him in is to ascertain why he did this dreadful thing, and how long it will probably take to inculcate right principles in this man?" Is that the only consideration the judge should have in deciding the length of the custodial sentence, or is he entitled, or indeed compelled, to have other considerations in mind, such as the public horror at the sort of offence, and indeed in these days the prevalence of such an offence? Are

those legitimate considerations for him? —I would certainly agree that they are, and I would go further, if I had something to say and the system would work, and say that the judge should impose a maximum sentence. Then if the man does not behave himself, he should stay there for three-thirds of the sentence, and not two-thirds. If he makes progress it should be another matter. If the judge sees fit, he should say that even after that maximum sentence certain safeguards should be put in, such as probation and so on, because even then he may still be a wild animal for all one knows. He may have had no benefit whatever from the sentence, and the judge should therefore see that beyond the sentence, there might be other steps. The man might be a paedophile, which is an even worse danger. But the important thing here is that the judge should feel that the man is going to be repaired, if he can be repaired, or if he wishes to be repaired, that there is something going on in prison which would help him and not possibly make him worse when he comes out; and that goes for sex offences even more.

688. I am not quite clear (I have not got Archbold by me at the moment) but I think the offence I have indicated carries 14 years, if not life—let us call it 14 years. In such a case as that, should the judge say: "Fourteen years for you", in every case?—I would say that a maximum sentence would be given, whatever it would be.

689. *Mr. Justice Edmund Davies*: You say "maximum": supposing the maximum permitted by statute is 14 years, then would you say, regardless of this particular young man, whenever you get a case of that kind you really do not exercise any discretion, you say "Fourteen years",

690. *Chairman*: I did not understand Mr. Hauser to say that. Did you not say that the judge would impose a maximum sentence?—Yes.

691. I understood you to mean that the judge would decide what was a maximum sentence he would impose, which would presumably be within the maximum prescribed by statute?—Yes, a maximum of three years or five years, whatever it may be, then he would serve three-thirds

of the sentence if he did not behave himself.

692. *Mr. Justice Edmund Davies:* Then my question is not answered. I thought it was being answered by the imposition of the statutory maximum, but if it is a maximum, I still do not know the judicial process whereby the judge is arriving at that—and I put it in quotes—"maximum".—I think it would possibly be a very good idea if some maximum sentences could be reviewed, which would not be 14 years but something which a judge sees fit.

693. But how is the judge to arrive at that maximum? He knows what the statute permits him to impose as a maximum, but how is he to arrive at what is a proper sentence in the given case? I come back to my previous question, is he going solely to say: "I have seen that man, John Jones, for the last three days in this terrible case; how long do I think it is likely to take to put him on the right lines?" Is that the only question the judge should put to himself?—I have already answered that the public must also feel that something is being done to remove the man from doing any further damage, which the judge will do anyway by giving him a custodial sentence. . . .

694. Damage to the community?—To the community, and I think if there is compensation in which he can participate, that is yet another possibility. But basically I would say if a man gets such a sentence, and then other factors come out which would change the situation—the man would change, the facts would change, something would change it—this would be brought to the attention of the judge through the proper machinery which would exist, and the judge would feel safe in saying: "This man now is no longer in the position he was in"; then I would say he should let him out in due course, with the safeguards he would think fit—I would certainly put in safeguards.

695. Should the judge have any reference to the attitude of the enlightened public in relation to crimes of that kind?—The public is basically not enlightened, because it would like to have the death penalty and all the other things like that going on,

and yet of course the judiciary—a good part of the judiciary, not all, I am sure—have decided in their wisdom that they want to stop it, with which I agree. Sometimes guidance must also come from the experts. And if the judge gives some sentence, and is then satisfied that this sentence can be set aside, but certain other conditions can still apply, such as parole, why should that not be possible? He has still given the man a maximum sentence, he has still assuaged the desire of the public that the man should be dealt with, but he has given also the "mercy" side.

696. That is a different matter, and I would agree with you about that.—I would say that how to evaluate a sentence is something I cannot understand, because in Europe there are laid down conditions, whereas here it is very much freer than in Europe. In Europe every man can count out when he will have a sentence, and how long he will serve for it.

697. *The Hon. S. Silkin:* This line of question and answer between the Judge and Mr. Hauser is all really based upon the assumption that one does have statutory maxima, and that a judge's province is to do something more than decide whether a man should go into custodial care, he has some responsibility for deciding either the maximum sentence or a sentence. I do not know whether in giving your answers you were assuming that that was going to continue, or were expressing an opinion as to whether it should or not. Do you think that this system should be continued, or that the judge's province should be simply to say: "This man will go into prison, or custodial care", and the rest, the length of time, be dealt with in another way?—I think I said in the memorandum that you cannot have prison reform without some kind of reconstruction. The judges need more tools, more opportunities. I remember once I had the honour to meet you, sir. . . .

698. *Mr. Justice Edmund Davies:* You were good enough to say I started you off on this.—Yes, indeed. But the point is that if the judges had more tools, and more opportunities to see the result of their handiwork, if the judges were the final instance also for rehabilitation and parole, then I think it would be very useful. But

you cannot have prison reform without reconstruction of the legal system, and I would say the judges should have more power than they have now on this matter in their other capacity as custodians of the community, not just for mercy's sake. Mercy is a different story. I would make a difference between a case of tragedy, where a man has kicked his wife when she was sick, and a case of rehabilitation, where a risk is deliberately taken by the authorities to give a man more leeway, to allow him to go out, or whatever it might be. But both are necessary. I would not trust the prison authorities, yet. The prison authorities should have to produce the evidence, plus presumably the prisoner also coming up and saying something, for a decision. But I would say all this depends on the training of prison officers; if you do not train the prison officers to do the typology, and so on, we cannot get anywhere whatsoever. We cannot leave it to the psychologists and others who see them only for an hour or two.

699. *Chairman*: Would you like ultimately to reach a position where all prison officers became directly involved in the rehabilitation?—That is not only my opinion but the opinion of their union; they have agreed to that in principle—knowing of course that there will always be those who are by no means willing to do so, but at least they should be given the chance to participate.

700. You support that idea?—Yes, I am sure that this is the key, because they see them 24 hours a day—you cannot pretend for 24 hours a day—and they can, if trained, help these men and discuss with them. But this should only be done by trained prison officers.

701. *The Hon. S. Silkin*: I do not think I made my question quite clear, Mr. Hauser. Assuming you have all the things you have just described, the right sort of system in the course of custodial care and the right sort of system for deciding when a man should be allowed out, do you think the sentence itself should still be a determinate one or do you think it should be an indeterminate one?—I do not think an indeterminate sentence is any good. I think the man must know: "The maximum is *this*". It is terrible not to know. I have

seen it elsewhere. The man who knows: "In six months I will go", or a year, is in a different position from the man who thinks: "Maybe next November I will go, or maybe three years in November". It is the difference between anxiety and fear. One knows if the worst comes to the worst there is a date, and this is very important psychologically for these people. Theoretically from our point of view an indeterminate sentence is more logical; but, from their point of view an indeterminate sentence is a terrible cruelty.

702. *Chairman*: So what would your conclusion be on that, that there should be an indeterminate sentence . . . —A determinate sentence, a maximum.

703. Yes, but within that then there can be flexibility?—A leeway one way or the other. But I think it is better from their point of view, they always tell you: "If you know a date . . .", the lifers will tell you: "If I only had a date", it does not matter what it is, a date.

704. We have had a case put to us in an extreme way, that it should be completely determinate, with no doubts about it, and that many of the people involved would prefer that. They would so to speak take their medicine and have done with it; they would know where they were. It did not seem to us conclusive that that was necessarily the right thing to do, just because they felt like that.—This is excellent from the apathy point of view. He knows: "I got my bird for six years" and that is that. The fact that we want to make it difficult for them to make the prison an uncomfortable place, the fact that we want the first phase of the prison to be a much tougher place than it is now . . . —I am one of those who would make prison much tougher for those who ask for it, not through their offence but through their behaviour

705. Tougher in what respect?—That they have less rights, less opportunities, they are treated with the minimum convenience available, preferably in the same prison where they see all the others have the advantages. We think it is very important for those people who want to use violence.

706. A severe régime?—Yes. I think many of them need this before they can get

707. *The Bishop of Exeter*: We saw this in California.—Yes, many people want the security of a tough prison régime, and then slowly you can wean them off it. If they are there too long, this is again a danger, but we must get them out of it. The man who will fight against us has a better chance when we get him to fight than the apathetic one who agrees with us when we open our mouths.

708. *Chairman*: Thank you very much. I think, unless any of my colleagues have any further questions, that is all we wish to ask you.—May I say one thing: I hope when your deliberations are being made, you might consider the question of prevention. I recognise that it might not fit into your terms of reference, but I think that nothing can be done about crime if there is nothing being done about prevention.

709. Yes, I think I would not quarrel with that idea. I would not want you to think that we did not consider prevention to be of the utmost importance, indeed of crucial importance, but we have not yet decided how far it will come into our deliberations. It is bound to make an impact on us.—I think it would change the situation dramatically if prevention could come in. I would say that the people who could help most on planning prevention and helping with prevention—with all due respect to the professionals, including myself—would be the prisoners. I think you would get from a place like Wandsworth Prison so many tips, so much help, that that in itself would also be part of their rehabilitation.

Chairman: I do not want you to think we are just setting aside any questions of prevention as being outside our field, that is not the case at all. Thank you very much indeed.

(The witness withdrew)

MINUTES OF EVIDENCE
TAKEN BEFORE THE
Royal Commission on the Penal System

Witnesses: Mr. HUGH KLARE }
Dr. R. G. ANDRY } of the Howard League for
Dr. HOWARD JONES } Penal Reform.

Wednesday, 10th November 1965

Present:

The Rt. Hon. VISCOUNT AMORY, G.C.M.G. (*Chairman*)

The LADY ADRIAN, D.B.E.

The Hon. Mr. JUSTICE EDMUND DAVIES

The Hon. SYLVIA FLETCHER-MOULTON,
C.B.E.

The Hon. S. C. SELKIN, Q.C., M.P.

Professor RADZINOWICZ

Mrs. ELIOT WARBURTON, O.B.E.

The Rt. Hon. LORD WHEATLEY

The BARONESS WOOTTON OF ABINGER

Mr. A. ALEXANDER, O.B.E. (*N. Ireland
Observer*)

Mr. A. J. E. BRENNAN (*Secretary*)

Mr. D. F. INGREY (*Assistant Secretary*)

**Memorandum submitted by the Howard League for
Penal Reform**

A. The Aims of Penal Measures

1. We hope that the Royal Commission will discuss the proper objectives of penal measures, a subject which is too often evaded because of the dissension which it provokes. As a basis for discussion we would propose the following:

that retribution, in the sense of atonement for the criminal act, should not be allowed to determine the nature or severity of the penal measure chosen.

2. It is important to emphasise what we are not suggesting. We are not suggesting that no offender deserves to suffer because of what he has done (although some of us would question the morality and utility of this principle as well); what we are suggesting is that it is not the function of a penal system to exact atonement for what has been done in the past; its function is to reduce, as far as it can, the number of such offences in the future. The relevance of what the offender has done in the past (when this has been established beyond reasonable doubt) is simply that it entitles society to intervene, if necessary without his consent, in an effort to prevent the repetition of his offence by him or others. In other words, society does not regard itself as justified in applying compulsory measures to someone who has not committed a crime, but is merely very likely to do so (although it may justifiably try to induce him to submit to voluntary measures). In an enlightened society the only form which the retributive principle should take should be:

that the commission of an act which is prohibited by the criminal law entitles society to subject the actor to certain measures designed to reduce the probability of a repetition of the act.

3. The acceptance of this principle will make it possible to design a penal system on a rational and we hope effective basis. Its main aim should be:

to alter the offender's disposition in such a way that he is unlikely to repeat his offence.

4. In some cases (especially with very young offenders) it is possible to achieve such radical alterations in the offender's character and circumstances that he becomes as law-abiding as the average citizen. We are not so unrealistic, however, as to imagine that this can be achieved in every case. There are many adults of normal mentality whose disposition to commit, for example, lucrative property offences, can be altered only by deterrence. It is unfortunate that "deterrence", through long association with such measures as hanging and flogging, has become a dirty word in the ideology of penal reform. Civilised measures, such as fines, can be effective deterrents (as recent research by the Home Office has shown).

5. Clearly, however, there are offenders against whom the public is entitled to protection. These include, for instance, persons who have committed and are likely to repeat offences of serious personal violence or the sexual molestation of unwilling victims. In some cases protective measures are necessary only for a period, until remedial measures begin to have their effect; but there are a few cases in which—because we have not yet devised effective remedial techniques—indefinite detention appears to be the only course which affords society adequate protection. We therefore accept that one aim of penal measures must be:

to afford society adequate protection against offenders whose offences result in irremediable harm, and who appear likely to repeat them.

6. But since we reject retribution as a proper aim of penal measures it follows that any measures designed with a view to the protection of society against an offender who—in our present state of knowledge—cannot be reformed, should be as tolerable as possible. In concrete terms, so long as it is necessary to impose compulsory detention on some offenders, this detention must be designed so as to minimise the suffering and deterioration in personality prolonged imprisonment in its present form involves.

7. We must also emphasise that an increasingly affluent (and insured) society does not need protection regardless of cost, both in terms of public money and in terms of human suffering by the offender, against petty thieves, frauds and embezzlers, however repetitive. For persons of this kind there are cheaper (and more humane) methods of protection than preventive detention in maximum security prisons, and we suggest some in a separate memorandum.

8. We recognise that penal measures in every society have functioned as general deterrents, discouraging others from imitating the individual offender. So long as the measures used by a penal system are publicly imposed and involve an element of unpleasantness it is inevitable that they will to some extent function as general deterrents. The public imposition of a fine, for example, cannot but be a general deterrent, albeit of a mild sort. But for a general deterrent to be effective it must be regarded as the inevitable or highly probable consequence of committing an act, whereas nowadays it is widely known that for certain types of offence the chances of detection are low and that, even if one is detected, it is by no means certain what the sentence will be. It follows that a sentencer who, with general deterrence in view, deliberately increases a fine or prison sentence which would have been adequate for reformatory purposes is highly unlikely to achieve what he thinks he is achieving; unless the fine or sentence is so spectacular as to become a nine days' wonder; and even nine days' wonders are eventually forgotten.

9. Finally, most penal measures can have undesirable by-products, even if they are deliberately and successfully designed with reform in view. A fine may deter a man yet impose hardship on his family. Imprisonment, even in those cases in which it does

reform, may impair his capacity for hard, steady work on release. One aim which an enlightened penal system must therefore have is:

to reduce to the minimum the unwanted side-effects of its measures on the offender and his family.

10. It follows, for example, that offenders in custody of any kind must be given constructive work, opportunities for close and intimate contacts at regular intervals with their wives and families, and immediate employment on release.

B. Towards a more Flexible Sentencing Policy

1. One of the limitations of the present sentencing system is that the courts have to make up their minds, not always on the basis of sufficiently full information, to apply a sentence ranging all the way from absolute or conditional discharge to life imprisonment. They have to do this at the moment of trial and without adequate foreknowledge of the way the offender might respond to his sentence or of changes in his circumstances.

2. The dilemma of how to make the right choice becomes particularly acute when the sentence involves deprivation of liberty. A fixed sentence of imprisonment is pronounced and then, regardless of any positive or negative development, the sentence must be served. Remission is automatically one-third of the period of imprisonment unless some part of it is forfeited as a punishment for an offence committed in prison.

3. This rigidity is softened only in special methods open to the courts, such as a sentence of borstal training which has a part (from six months to two years) which must be served in an institution and another part which is served on licence and under supervision in freedom.

4. We believe the time has come when a greater degree of flexibility ought to apply to all sentences of imprisonment of eighteen months or more. All such sentences ought to be reviewed approximately once every six months, with a view to possible release on licence, under supervision and subject to the possibility of recall.

5. We are under no illusion as to the magnitude of the task of deciding when to release. There is first of all the question of sheer numbers. In 1962, out of a total daily average prison population of 20,364 men and women, 10,794 (i.e. more than 50 per cent) were serving sentences of eighteen months or more.

6. The possibility of release being decided centrally, either by the prison department or the criminal department of the Home Office is therefore remote. It would have to be handled by the Governor of each prison, assisted by a small panel which should include an expert on behaviour and a lawyer.

7. Then there is the question of release criteria. Predictors will have to be established, and this will take time and can only be done if there is adequate follow-up and a feed-back mechanism which would eventually produce information on which decisions could be based. Perhaps a system of graded release such as we suggest in section D might avoid major mistakes. It might also be realistic as well as comprehensible to prisoners.

8. The introduction of uncertainty about the precise duration of the period of imprisonment will introduce extra tension into prison life. But borstal has already got a long-established tradition of coping with a limited indeterminacy in the sentence. Prison could acquire this also and indeed use the possibility of earlier release as an incentive. We are against any formal appearance of prisoners before a parole or licence review board and would prefer these decisions handled by the Governor as is the case in borstals.

9. Release on licence of considerable numbers of prisoners would diminish the prison population and therefore save money. But it would put an extra burden on an already hard-pressed probation service. The question ought to be explored as to whether some members of the prison service could be involved in supervision on licence.

10. This could only be done to the extent to which local prisons really are local, i.e. contain a high proportion of prisoners who normally live in or near the same town. Where this is the case, there are good reasons for encouraging specially selected and trained members of the prison service to act as supervisors.

11. For one thing, members of the prison service with a special aptitude for, and liking of, case-work could do this in circumstances quite other than within an institution. For another, it would help all those working, or being incarcerated, in prisons to learn to look beyond the walls of the institution and to think more about what happens on release. Moreover, some staff members may actually be better at face-to-face relations with some prisoners than probation officers, as witness recent American research concerning the "matching" of prisoners and case-workers. Finally, since a system of release on licence would take some of the weight off the prison service, it would be a sensible use of manpower for selected staff members to help the probation service in their after-care duties.

12. But such a system would require a further reorganisation of the probation and after-care service. There would have to be even more specialisation on after-care and a closer link with prisoners and prison staff on the one hand and voluntary workers on the other. It may well be that the Principal Probation Officer of the area, or the Senior Officer specialising in after-care, as well as the prison welfare officer, should be a member of the release board. Decisions of the release board and the reasons for such decisions would have to be communicated to appropriate members of the prison staff; and there would have to be reasonably frequent case conferences and some system of supervising the after-care carried out by members of the prison service.

13. We now turn to an alternative to the system described above which would provide an even greater degree of flexibility. We put this forward as a system that merits consideration although we are doubtful whether such a drastic change can be introduced at this stage.

14. The Streetfield Committee* put forward a number of recommendations designed to improve the decision-making by courts which is involved in a choice of sentence. Not all of these have been implemented but we note the recent publication, "The Sentence of the Court",† designed to help sentencers; the increasing emphasis on the training of magistrates; and, last but not least, the conference on sentencing policy initiated by the Lord Chief Justice and attended by High Court Judges, Chairmen of Quarter Sessions and Recorders.

15. However the effectiveness of decision-making on the part of courts may be improved, the difficulty remains that a decision which may be valid today may become invalid tomorrow because of changed circumstances which cannot be foreseen. It is for this reason that we recommend an extension of the system of release on licence.

16. A more far-reaching change which allows for even greater flexibility would be not to force the courts always to choose the right sentence at the moment of trial; except for the alternatives of absolute and conditional discharge, binding over or a fine. When it comes to choosing between actual supervision in freedom (probation) or in custody (imprisonment), we might envisage a new sentence to be called a supervision-or-custody order. This would entail the disappearance of straightforward probation orders and of sentences of imprisonment, as such.

17. Under this procedure, the court (which would have the power to fix the maximum length of such an order) would impose a supervision-or-custody order of, say, up to three years. But whether the offender begins his sentence under supervision in freedom,

* Report of the Inter-departmental Committee on the Business of the Criminal Courts—Cmd. 1289.

† H.M.S.O., 1964.

and, should this fail for one reason or another, be moved into an institution for a spell, or vice versa, would depend on circumstances. We would envisage, however, that in certain exceptional and defined cases, the courts would retain the power to stipulate that the sentence would commence with custody.

18. The procedure has the advantage over our first proposal (which we prefer) of being a better model, in terms of social engineering. For it would entail even greater liaison between, and intermeshing of, the concepts of supervision in freedom and supervision in custody. It is not only that those who are inside will be encouraged to look outside and beyond the institution; but those who are outside would concern themselves more with what goes on inside. A supervision-or-custody order would tend to transform the two modes of treatment into a continuous treatment process; and this is entirely desirable.

19. The procedure might be as follows: persons accused of offences and charged would be brought for trial. The courts would find innocence or guilt. In the latter case, they would have a choice of the traditional methods (as outlined in paragraph 16 above), plus a suspended supervision-or-custody order; and a supervision-or-custody order.

20. If it is the last method the court chooses, then the police would be asked whether outpatient diagnosis is opposed. A little as in bail cases now, the police would, or would not, oppose an outpatient diagnostic procedure. They would here, however, not bear in mind the course of the prosecution (since the persons concerned here are already convicted) but the safety of the public.

21. It may well be that in some cases (e.g. a burglary), the court would themselves decide on diagnosis being made in custody. In other cases (e.g. a fraudulent conversion) the police might oppose diagnosis in freedom. In yet other cases, a person other than the convicted person, or the convicted person himself, might stand surety in an amount fixed by the court, for the period of diagnosis in freedom. Finally, there would be many cases (mostly those who might be put on probation) where a surety is not required and the convicted person is simply ordered to attend a diagnostic centre.

22. Diagnostic centres, with in-and-outpatient facilities, would have to be established in most prisons. The number of inpatients should not significantly exceed the number of those now remanded in custody.

23. Treatment boards, perhaps presided over by a lawyer, would meet in a room in local prisons and diagnostic centres and they would actually decide, on the basis of the reports before them, how the supervision-or-custody order should be served.

24. The ultimate objection to such a system probably lies in its novelty. Traditionally we have always regarded the courts as the guardians of liberty, whether rightly or wrongly. And we have always preferred a sentence pronounced in open court (whether well or ill designed to protect the public or to prevent a repetition of the offence) to trusting experts—still sometimes a dirty word.

25. More real is the fact that the expertise of experts is so far very limited. We hope and believe that diagnostic and treatment skills will improve in time. When it is demonstrably so, it might be time to devise a system which allows specialists (in law) to get on with trials and the finding of guilt, and specialists (in behaviour) to get on with diagnosis and treatment.

C. Family Courts and a Family Service

1. The minimum age of criminal responsibility should be raised to school leaving age.

2. Family courts should be set up with something like chancery jurisdiction extending over all children under school leaving age and their families and which would deal with adoption proceedings; affiliation proceedings; domestic proceedings; proceedings

in respect of acts committed by children under school leaving age who, if they had done what they did over school leaving age, would have committed an offence; with care and control proceedings; and with cases of school refusal.

3. Family courts should be staffed by magistrates throughout the country selected not necessarily from among existing magistrates but from suitably qualified youngish men and women of balanced personality. Appointment as a family court magistrate should not be a reward for political or other public service; nor should it connote, or confer, any special distinction. Instead, it should be regarded as onerous and difficult service which must be discharged for the good of the community just as a doctor, a nurse or a teacher render a service for the good of the community. Eventually, such magistrates may have to be paid.

4. Applications to be a family court magistrate should be made much as candidates apply for appointments in the field of social work. There should be careful preliminary interviews, perhaps by a senior representative of the local family service, an experienced family court magistrate and possibly a headmaster. A short list should be established and there should be a final selection procedure, including a final interview with a selection board which would include a psychiatrist or a psychologist. Perhaps this interview could be at the family diagnostic centre (see paragraph 7 below) with which family court magistrates will be closely associated.

5. All family court magistrates should have some compulsory initial training, not only in court procedure and law; together with lectures in the psychology and sociology of delinquency and visits to institutions; but also group discussions on case histories, their meaning and possible ways of dealing with the families concerned. They should have some idea of the dynamics of interpersonal relationships in families.

6. Since family courts may have to deal with complicated legal as well as human questions, each court should have a clerk who should be a qualified lawyer.

7. Supporting the family courts there should be one comprehensive social service dealing with any difficulty in family life. This should develop into a cohesive force, counteracting some of the disruptive aspects of social change, normlessness and isolation, as well as individual aspects of family breakdown, inadequacy and pathology.

8. The exact limits of such a comprehensive social service, however, we do not feel able to define. We doubt whether it could embrace all the medical and educational services for example; though it may have to include some aspects of these (e.g. residential schools for children with special difficulties).

9. We believe that cases of mental or physical cruelty, neglect, parental strife or irresponsibility should, whenever possible and where the removal of the child need not be envisaged, be dealt with informally by case workers of the family service. Behaviour on the part of the child which gives rise to the suspicion that all is not well (predelinquent behaviour, school difficulties, scholastic attainment well below potential, bed-wetting, truancy, etc.) should be notified at the earliest possible moment to the family service.

10. Where spotting the real problems appears difficult, the case should be referred to a family diagnostic centre. This would be a place a little like the London Remand and Classifying Home, Stamford House, with extended facilities. It would include accommodation for children who should be diagnosed away from their families and plentiful outpatient facilities both for the children, and for the parents and siblings. Staff for the resident children should always include a psychiatrist, a psychologist, one or more psychiatric social workers to interview the parents. There should always be a case conference at the end of the diagnostic process.

11. Some child guidance clinics could perhaps also be used as family diagnostic centres; and consideration should be given to attaching these clinics to the family service.

12. This is perhaps also the place where something should be said about the training of those concerned with diagnosis and treatment. A recent National Association for Mental Health pamphlet* recommends, *inter alia*, that:

- (a) there should be selection as to personal suitability for training. The possession of a medical qualification in itself is no guarantee of suitable personality for this kind of work;
- (b) there should be training both in dynamic psychology and in clinical psychiatry. This was recommended by the Royal Medico-Psychological Association in 1951. The need for training in dynamic casework is further increased by the fact that more social caseworkers are now trained in dynamic concepts of human growth and behaviour and in the course of their work consult the (child) psychiatrist. If he is not trained in dynamic psychology he cannot help them to deepen their insight and understanding;
- (c) during the period of training, treatment should be undertaken under the supervision of a qualified person.

13. To this we would add that, since at present most child guidance clinics concentrate on neurotic rather than delinquent children, those who will in future concern themselves with family diagnostic work and those who work in family diagnostic centres should have some training in forensic psychology and forensic psychiatry.

14. Reception centres also fit into this scheme and should come under the family service. If the police have to take a child away to a place of safety, that is where he should be taken. Some family diagnostic centres could perhaps be housed in the same building. Others could be near reception centres and possibly use some of them for in-patient facilities for children. Places of safety are needed with various degrees of security.

15. The procedure would be as follows: Someone, it could be a teacher who is worried about the child, or a policeman who catches him stealing, notifies the local family service.† A case-worker of the family service calls on the family, explains his reason and sees how he can help. Certain cases which can be dealt with informally should be so dealt with. And this would no doubt save some court appearances for the family service should play a considerable part in the prevention of crime. But a comprehensive and well-functioning service would probably also lead to the discovery of more cases that need to be taken to the courts. This might, therefore, increase the burden on the courts.

16. Cases which cannot be resolved informally by case-workers of the family service and all cases which involve formal supervision of the child or parents, or removal of the child from home, should go to the family court. Though not criminal courts, we envisage that, when dealing with children, family courts should have quite similar powers as the present juvenile courts and should have the following methods open to them:

- (a) giving a warning to the child (or to the parents). Warnings to children would have to be well and comprehensibly administered so that the child really understands;
- (b) giving an absolute or conditional discharge to a child who did something that would have been an offence had the child been over school-leaving age;
- (c) binding the child over in cases where he would have been found guilty of an offence had he been over school-leaving age;
- (d) making a restitution order which could sometimes be used in place of a fine;

* Child guidance and child psychiatry as an integral part of community services. N.A.M.H., 1965.

† Though some simple cases could no doubt be dealt with by the Juvenile Liaison Officers where they exist.

- (e) imposing a fine on the child in cases where he would have been found guilty of an offence had he been over school-leaving age;
 - (f) making a supervision order where either the child needs supervision because he has done something which would have been an offence had he been over school-leaving age; or truants; or is in need of care or control; or where the parents of a child are neglectful, etc ;
 - (g) making an attendance centre order;
 - (h) finally, a fit person order could be made for the child and this would enable the family service to put the child into any one of a whole range of schools, hostels or homes, including what are now called approved schools* and schools for maladjusted children, or into a foster family.
17. These proposals mean that the lower age limit for making a borstal training order and sending children to detention centres would be whatever the school-leaving age might be.
18. When dealing with parents who neglect or mistreat their children or who fail to exercise proper control and supervision over them, we envisage that the family court would either remit appropriate cases to an ordinary magistrates court with recommendations for disposal, such as probation, fines or binding over; or would have a special panel with criminal jurisdiction which could impose such methods on persons above school-leaving age.
19. Children below school-leaving age would not have a criminal record; but a social record should be kept for each child by the local family service, with a copy for a Central Social Records Office.
20. The procedure by which the court would decide would be as follows: If the child and the parents concerned agree that diagnosis should be completed before the hearing, then a full report would be sent to the court before the hearing. If this agreement is not obtained, then the case would be heard and, if established, be remanded for diagnostic purposes to the family diagnostic centre. If possible, magistrates should then sit in on the final case conference so that they understand the reasons behind the recommendations of the family diagnostic centre which, in turn, would enable them to dispose of the case rapidly when it comes up for decision. Such a machinery would help to train magistrates and no doubt also help the diagnostic staff to formulate their reasons clearly. It should also improve decision-making by the courts.
21. We feel that there should be simple rules of evidence; and that the criteria of judgment should be "beyond reasonable doubt" where the act would have been an offence if committed by an older child. We also feel that there should be the possibility of appeal to a Family Appeals Court which would not be a criminal court but be staffed by specially appointed persons with experience of family courts, presided over by a judge. On points of law the judge's ruling should always be decisive.
22. We do not feel competent to make detailed recommendations regarding the administrative set-up of the family service. We would only add four further points to the brief outline:
- (a) staff at all residential schools and homes need training on generic lines, as recommended by us in our evidence to the Williams Committee (Q.V.);
 - (b) family diagnostic centres and family courts need a feed-back mechanism so that their work becomes more accurate;
 - (c) the family service must be research-minded so that different treatment methods can be evaluated or new experiments set up in such a way that measurement becomes possible;

* We feel that the term "approved school" should disappear and that there should be a wide variety of boarding schools for children with special needs which should either be inspected by, or at least work in close liaison with, the family service. The family service would also be in close contact with parents and would arrange for holidays, etc.

- (d) since there is bound to be a shortage of social workers within the foreseeable future, the family service should also use part-time trained workers, and in particular married women, and should study the best way of using voluntary workers for certain tasks, perhaps after some training.

D. Some Proposals Regarding the Prison System

Introduction

1. What follows is a bare outline of some proposals regarding the prison system. We are willing to elaborate these in verbal evidence, if requested to do so.

Types of Prisoners

2. Before considering possible treatment methods, length of sentences, selection and training of staff and management problems involved in running a centrally administered prison service concerned with various and sometimes complex objectives in relation to human beings, many of whom have difficulties of various kinds, it might be useful if some sort of broad classification of prisoners were attempted.

3. All classifications are inevitably somewhat arbitrary since people do not fall neatly into types. And the purpose for which classification is required will to some extent determine the way in which the decisions are made. We would like to draw attention to the classification used by Dr. R. G. Andry in his book, "The Short-term Prisoner",* which is based on personality factors.

4. But for the purpose of our evidence we prefer a more general classification which we think might be capable of providing a basis for a few broad differences in treatment emphasis. We would distinguish:

- (a) persons whose delinquency is basically neurotic in origin. This is probably a relatively small category;
- (b) persons whose delinquency might be basically psychopathological or constitutional or both in origin and who show considerable character abnormalities. This category may overlap to some extent with (a). It may be larger than (a) but at any rate in its most severe forms it still probably accounts only for a relatively small proportion of the prison population;
- (c) persons whose delinquency is basically socio-cultural in origin. This is a much larger group than (a) or (b) and it also overlaps with both. These are people who, because of their experiences in childhood and adolescence, are often strongly peer-group orientated, indeed, well-adjusted to a peer-group. But the group is delinquent and/or part of a larger delinquent sub-culture. Persons in (c) are usually people with very limited opportunities for achievement, seldom of very high intelligence and sometimes with experience of real adverse discrimination;
- (d) persons who have apparently become delinquent by conscious choice; and who may be significantly more successful in crime than those belonging to the other three categories though they may overlap with (a) and/or (b) and/or (c). These are professional criminals, apparently a very small category so far;
- (e) persons belonging to (a) and/or (b) and/or (c) over the age of 30 who, by reason of their age, experience of institutional life and/or general inadequacy may have become persistent petty offenders. This is probably a large category, forming a considerable part of the stage army of habitués at local and central prisons.

Types of Treatment

5. There will be many people in categories (a), (b) and (c) whose neuroticism, character abnormalities, situational difficulties and the delinquent behaviour springing from such

* R. G. Andry, *The Short-term Prisoner*. Stevens, 1963.

factors will be relatively slight. If possible, such people should be dealt with in freedom. If this is not possible, then all that may be required is

a good, smallish prison such as one finds in Sweden, with good workshops, constructive work, reasonable earnings, clean and decent accommodation, more contacts with the outside world, including perhaps conjugal visits, and a general atmosphere in which human dignity can prevail. Most of the present prisons in this country would not meet these requirements and we hope that the Royal Commission will recommend that such prisons be constructed as soon as possible. Due regard should be paid to siting (wherever possible, in towns) and to modern design ideas. Except for special maximum security institutions, prisons should be conceived as potential community centres where work can also be done with wives and families rather than as places of social isolation.

6. People in category (a) who are more disturbed, but who are also reasonably young and sufficiently intelligent, should have intensive psychotherapy. It may be necessary to have a few special small institutions or parts of institutions, some open, some closed, for them; and a régime capable of making use of various individual, group and behaviour therapeutic techniques selected for their appropriateness to the prisoners concerned. These techniques should be evaluated and machinery to do this should be built up.

7. People in category (b) with marked character abnormalities might be divided into those who might respond to a Henderson-hospital type régime, and others who could not respond. A few of the latter might have to be kept in conditions of real maximum security if they are sufficiently dangerous. This will include some murderers. But attempts at various forms of psycho-therapy, perhaps with the help of drugs, should not be abandoned if there is any hope left of the prisoner responding.

8. People in category (c), whose adjustment to peer-groups is good, might be sent to Swedish-type prisons but where special group work is done of a kind which aims at altering the values of the groups. This can happen in any group but perhaps special techniques could be evolved (some of them with the accent on activities and the possibility of role-playing) to take account of the special capacities and needs of persons in this category.

9. Many in category (d) might have to serve their sentences in conditions of maximum peripheral security, but as viable communities nevertheless and with facilities as in a Swedish-type prison.

10. Category (e) could largely be kept out of prisons altogether. They will often be isolated, lonely people who need permanent support, perhaps in work colonies, as suggested by Dr. Derek Miller. These would have sheltered factories but with a social and cultural life as nearly normal as possible. Others could live perhaps in hostels with (more or less intermittent) work outside and with support from a nearby institution to which they could return for short spells after which they might try themselves out in the outside world again.

Length of Sentences

11. We recommend that all* sentences of three months or less be abolished. Virtually half of all prison sentences fall into this category.

12. If a deterrent is required for people falling into categories (a), (b) or (c), but who are not strongly criminal, a greater use of fines might obviate the need for some short sentences. As "The Sentence of the Court" shows, fines appear to be rather more successful than other methods of preventing recidivism, not only for first offenders but also for recidivists themselves. But we recommend that the system of "day-fines", as practised in Sweden and whereby the fine is related to income, should be considered. Here is perhaps a fruitful field for research.

* With a few specified exceptions, such as failure to pay fines.

13. We should like the possibility of suspended sentences re-examined again, in the light of whatever knowledge may become available regarding the effect of deterrence on certain personality types.

14. Chronic alcoholics should not be sent to prison. We need more units for alcoholics (and drug-takers) within the National Health Service. But we also need hostels and the kind of approach which has recently been suggested by the Royal London Discharged Prisoners Aid Society. Some alcoholics and drug addicts will, however, also commit crimes and may fall into category (a), (b), and especially (c) in our tentative classification.

15. The abolition of periods of imprisonment of three months or less would have a dramatic effect on the régime of local prisons where so much time is spent in administering the rapid turn-over of prisoners. Little constructive work can be done when so much effort has to go into reception, discharge and what is really analogous to the "tracing and storing" of so many short-term prisoners. The sausage-machine atmosphere of local prisons, well described in the book on Pentonville by Dr. and Mrs. Morris, should soften considerably.

16. Though cutting out short periods of imprisonment should reduce the yearly number of receptions and discharges very considerably, the impact on the daily average population of prisons is likely to be far less marked. It is not only that short-termers occupy cell-space for a shorter time than long-termers but also that, whereas a proportion of the previous 7 or 14 days sentences might be converted into, say, fines, others might be turned into sentences of more than three months.

17. At the other end of the scale, we have proposed elsewhere (Document B) that all sentences of eighteen months or more should include the possibility of release on licence. Both for release on licence and for classification and allocation to the appropriate prison, we need more diagnostic facilities. Every prisoner should be examined for these purposes. The diagnosticians must know how their diagnosis works out and the results of allocation and treatment must be evaluated.

18. We believe that a system of release on licence should include the possibility of graded release. By this we mean that if diagnosis is carried out in a secure prison and the first part of a longer sentence is served there, then the release board might decide, as a preliminary step, to release to an open institution or a hostel before deciding on the next step, which might be release into the town under supervision.

19. Such a system not only softens the difference between complete loss of freedom and complete liberty, but also gives the release board as well as the prisoner a chance to test out each new step. Once again a feed-back of information is required so that decision-making by the board becomes more scientific.

Selection and Training of Staff

20. There should be an initial course of a generic kind both for new Assistant Governors II and for prison officers. In addition, there should be prolonged in-service training for all, though the requirements of different institutions would require some specialisation in further training.

21. Opportunities for training in group work should be available for all. The type of group work done would differ according to different institutions and the needs of the prisoners. Even the Swedish-type prison, work and activity orientated, should use group work of some kind, if only as a means of opening up communications.

22. Staff of both sexes should be introduced into certain prisons. Personnel showing a preference for a particular type of work should, whenever possible, be allowed to specialise and have a career within the kind of institution they like to work in.

Management Problems

23. Many of the safeguards, checks and balances and much of the routine work in the Prison Department and the Prison Service is concerned with the organisation of custody and control.

24. There is much idealism and a good deal of talk—and effort—concerned with rehabilitation. Yet neither the individual institutions nor the Department as a whole is yet entirely accustomed to judge its work by the results it achieves. For example, in discussions about the effectiveness or otherwise of the present punishments and rewards, the point is often made that “good behaviour” should be rewarded. Yet a “good” prisoner is often a failure as a citizen and it is with this that everybody should be concerned. A year with few escapes might also be a year when a high proportion of those released might relapse into crime.

25. At present, a good deal of managerial time, even at headquarters, is taken up with day-to-day business within the framework of statutory rules. Subjects which preoccupy official attention are concerned with the orderly conduct of prisons or with store-keeping machinery (which is, in effect, often ineffective). Other subjects concerning, for example, the competence of case-work or group-working procedure, or the preparation for discharge and after-care procedure, or the application of a new treatment or training technique, are left largely to individual initiative.

26. There is often no follow-up after a new experiment; there is no machinery for learning the lessons of success or failure; not enough reflection, in terms of personnel policy of the needs of special treatment programmes and no official feed-back to staff training college, establishment branch and the prison board which could help to formulate future policy. There is, as it were, insufficient digestive capacity within the organisation of the service and the department to help to adapt effectively to successful new methods or to eliminate unsuccessful old methods.

27. To overcome some of these difficulties we put forward the following recommendations:

- (i) A technical inspectorate should be established. Its function would be to inspect rigorously the techniques used in case-work and group work of various types, community work and liaison with after-care; and to report back to higher management. It would also keep in close touch with the training college.
- (ii) Machinery should be set up to evaluate different treatment methods in various ways. The result of evaluation should be made available to management, to those concerned with treatment and to the technical inspectorate.
- (iii) Professionalisation in social science skills should be increased within the prison service and in the prison department. To this end recruitment should become more flexible and the point of entry should not be largely confined to the lower end of the Assistant Governor II grade.
- (iv) Recruitment to the grade of Assistant Director should not be exclusively through long service in the Governor grade. There should be greater access to the grades of Assistant Director and Director, and some of these appointments should be open to specialists; and sometimes some of the top appointments should be open to people from outside, e.g. from the universities or with experience in another field, such as social administration.
- (v) The relationship between the administrative grade and the directors and assistant directors should be examined. This is a difficult and touchy area but of great importance to a directly administered and managed service like the prison service. Perhaps it might be useful to get the advice of a good firm of management consultants.
- (vi) There should be facilities for training at top management level.

Appeals and Complaints

28. Legal aid facilities should extend to Appeals; and there should be lawyers within reasonably easy reach of all prisons who could specialise on this (q.v. our evidence to the Departmental Committee on Legal Aid).

29. Much greater and freer communication within prisons should result in a more self-correcting system whereby complaints, real or imaginary, can be properly aired and dealt with. In prisons or parts of prisons where there is freer communication, there are also fewer reports and punishments. There should be freer communication with the outside world, too, and except in real maximum security prisons, less secrecy about what goes on inside. Prisons have nothing to hide or ought not to have.

30. But where there are still grievances that have not been dealt with, there ought to be possibilities of independent investigation, perhaps by the Ombudsman or Parliamentary Commissioner if, as we hope, such an office is created.

31. If these recommendations are acted upon, the function of visiting justices should be re-examined.

EXAMINATION OF WITNESSES

Wednesday, 10th November 1965

710. *Chairman:* Gentlemen, first may I on behalf of my colleagues thank you very much for being willing to come and see us. I think then I would like again on behalf of all my colleagues to congratulate you on what, if we may say so, seems to us a most admirable marshalled piece of evidence. It seems to us to be a model of its kind. Particularly may we congratulate you on having condensed your arguments over a wide field in such an excellent way.

—*Mr. Klare:* Thank you very much.

711. The only thing I would like to say before we start is that we would not propose today to ask you questions on Section C of your evidence but we would like to say that rather later on we might well wish to ask you if you would be good enough to come again to enable us to ask you questions on that Section.

—*Fine.*

712. First there seems to be meat in almost every paragraph of your evidence and I think perhaps the best way would be if we started at the beginning and just went through it to give my colleagues an opportunity of asking questions as we go along so that we do not get in a muddle and overlook certain parts.

If we may start at A, may I just say as regards paragraph 1 we are very interested in what you say there and the first question I would like to ask is would you care to expand a little bit on what you mean precisely by "retribution" and the distinction that you draw between the use of that word and the more general word "punishment".

Perhaps I ought to say we are all going to try to restrain ourselves from getting involved in too deep a philosophical discussion.—I was going to say, we do not feel competent to do that.

What I have in mind, if I may summarise, is that the notion of retribution implies a notion of balance. If a wrong is committed then there has to be a balance to right this wrong in some way. We believe the penal system ought to be so designed as to provide the best protection to society. It ought to be a rational system which is designed to stop recidivism, where possible and protect society where this is not possible.

If you have a system where you introduce the notion of balance then this balance, this having to equal the wrong with some punishment which as it were atones for the wrong might distort what is really a rational sentence in either sense. If you take retribution to mean an eye for an eye, then it means only an eye for an eye or it also means as much as an eye for an eye. Neither of these two things might be appropriate.

If I may anticipate a little we have as you notice retained a tiny bit of the notion of retribution for this reason. We do not agree with the various concepts of social defence which exist on the Continent and which you will know about. We think if you base a penal system purely on deterrence and reform, then one might be tempted to take deterrents or reforming measures before a wrong has been

committed. That minor retributive aspect we retain in our argument is that the penal system ought not to intervene until a wrong has been committed. I hope that explains our views.

713. You rule out any compulsion or measures that interfere with liberty, of a preventive nature?—We think, as we expressed it, we might perhaps persuade someone. For instance, we know of cases of potential murderers—some of our psychiatrist friends have told us of cases—and we do not think it is possible to intervene in a compulsory manner easily but we do think we can put pressure to bear on an individual to take treatment.

714. *Professor Radzinowicz*: I follow this reasoning. I am very much in sympathy with it. I would like however clarification from you on one or two points. Does this element of retribution, does it also assume a certain balance between the gravity of the offence and quality of the sanction, a kind of tariff? Does it therefore mean you would disregard the balance between the two altogether and simply apply sanctions in addition to the possibility of reforming an offender or protecting society, or would you still feel it is important to preserve some kind of balance, some kind of proportion between the gravity of the offence and the way in which we right it?—That is not written into our written evidence but I would agree that I think it is important to preserve some sort of balance but not to lean over and to have a tariff system as you suggest, even a modified tariff system.

715. *Chairman*: Would that be a sort of relativity connected with the gravity of the offence?—I think the gravity of the offence will have to be an element which has to be taken into account. It should not be the decisive element.

716. *Lady Wootton*: May I take that one step further? You contemplate some balance between the gravity of the offence and the extent of the treatment. When you say the gravity of the offence, there are various ways of measuring this. One is to measure it in terms of the wickedness of the offender and another way is to measure it in terms of the social damage the offence does. They are not necessarily the same

thing. Could you clarify which balance, if either of those, you are thinking of? Either of those may be comprised under the phrase, "the gravity of the offence".—I think this is a very difficult question to answer. I think I shall have to answer personally because I do not think we have gone sufficiently into this.

Myself, I would have thought it was extremely difficult for someone who is not the offender himself to judge the wickedness of the crime. I think this is probably only known to the person concerned himself and perhaps not even to him and therefore I would be personally inclined to judge it by the social damage.—*Dr. Jones*: May I possibly, as you spoke personally, do the same thing? I think myself the only efficient basis for a penal system is one which abandons the idea of any kind of proportion between the offence and the punishment.

At the same time there is a factor which has to be taken account of (which has nothing in my view to do with morals), which has to do with the principle of effectiveness, and that is that there is a widespread sense of justice about these things at large which is going to affect the acceptability of a particular proposal as well as the extent to which it is likely to be carried into effect and implemented by the public at large; and this policy, even though it is genuinely a diversion from the real purpose, to reform the offender, I think this has some bearing on the question Lady Wootton asked. It seems to me both of these are unsatisfactory in a sense because it may be nothing to do with the offender that his offence had serious social consequences. It may be purely an accident of the circumstances in which the offences occur. It may not be his fault it had these very serious consequences: and I think, as Mr. Klare said, it is quite impossible really to measure the degree of genuine sinfulness in these situations. It seems to me a fairer basis might be worth considering, the seriousness by which the offence is regarded by the public at large.

717. *Mr. Justice Edmund Davies*: If you put to the forefront of your consideration your apprehension of reasonably minded members of the public, must you not have

regard to the proportionality to gravity of the offence in arriving at your sentence?—In so far as it has to do with its effectiveness. Clearly one has to do something like this because people expect it and will not give co-operation in the administration of law if it is not taken into account.

718. You are risking, if you do not have that, bringing the law into contempt.—I think there might be another moral basis for the law than simply that of proportionality.—*Mr. Klare*: You mean in arriving at the sentence?

719. Certainly.—This I think we would agree.

720. *The Hon. S. Silkin*: Does it follow from all this, the only reason put forward for the balance is that it is conceived, society expects it although you would take the view society ought not to expect it?—This is in fact being realistic about society, a factor we have to contend with, and in my view this is as relevant a factor as the psychology of the individual or other factors.

721. *Chairman*: Am I right in understanding, while you would reject moral disapprobation you would accept an element of what I might call social disapprobation?—*Mr. Klare*: Yes, I think that is right.

Mr. Justice Edmund Davies: Social repudiation of the act complained of.

722. *Chairman*: If social disapprobation were given more scope, do you think it might result in public opinion of a rather irrational and emotional kind swelling up at a certain period due to some external incident or something; and that there might be dangers there?—I think the element of social disapprobation is important for this reason. I think society needs sanctions to protect itself from its own, if you like, unconscious criminal impulses. We all need this. We need to feel that certain things are socially disapproved of. This helps us to keep on the straight and narrow. It may not always help criminals to keep on the straight and narrow but it helps the others. But the other side, as you rightly remarked, is that if you keep a sort of sense of balance in this, it prevents the pendulum swinging too much either way. You will never be over-lenient with

offences which are felt to be very threatening, nor will you be over-severe.

723. *Lady Adrian*: My feeling is that, it is the judicial function to keep that balance and prevent the pendulum swinging.—It is an aspect of it.

724. *Chairman*: I do not know whether that brings one on to the first consideration of the role that deterrence has to play which you referred to in your next two or three paragraphs. I do not know if there is anything you would like to tell us. I think we found this a very difficult aspect of the problem to consider, for the obvious reason that it is so very difficult to weigh up the deterrent effects on individuals, and the people who are there to be studied at first hand are, in a way, those with whom the deterrent has failed.

Mr. Justice Edmund Davies: You deal with it in your paragraph 8, do you not?

Chairman: I am sorry if I have jumped the gun. Perhaps we will therefore defer that for the moment. I wonder if there is anything in paragraph 2 that directly arises?

725. *Mr. Justice Edmund Davies*: One member of the Commission who is absent—might well question whether it is right to propose, as you do in the second sentence of the second paragraph after the semi-colon: "... what we are suggesting is that it is not the function of a penal system to exact atonement for what has been done in the past; its function is to reduce as far as it can the number of such offences in the future"—I think one of our members would, if he were here, ask you do you think there is an essential conflict between those two.—We think there might be because atonement—this is the point I tried to make at first—could mean either very little or too much, and what we are aiming at is an effective penal system and this element of having to take into account too little or too much should be reduced.

726. *Lady Wootton*: May I put this in rather an extreme form to see whether you would agree with it? It may be true some of the inadequates are really people who will not keep out of trouble unless they are treated rather better than the run of mankind in which case, far from atoning for

what they have done, they may almost need to be coddled. Is that a real conflict? —I think that is a very good example of the kind of difficulties we have in mind. We do feel there are many habitual petty criminals who are inadequate and who need specially sheltered conditions and this is really what we have tried to suggest for them because they cannot live without sheltered conditions.

727. Atonement would make them worse rather than better?—Atonement would not improve the sheltered situation in which they should find themselves, but the opposite.

728. The conflict is then absolutely sharply set, is it not?—Yes.

729. Either you atone, in which case they go on doing it, or you do not exact atonement and you spoil them and coddle them and there is some chance perhaps they do not go on doing it, and that is the conflict where you must choose?—Yes.

Lord Wheatley: Is there not a distinction there between the length and nature of the sentence and the method of treatment within the sentence?

Mr. Justice Edmund Davies: That is it.

730. *Lord Wheatley:* As I understand it, in a way you are departing from the wording of your memorandum in the sense that you are not now rejecting what you call retribution. I feel your objection is rather to the term than to the concept. I do not think any of us regard retribution in the terms of an eye for an eye or a tooth for a tooth, but you have accepted an element of the sanctions authority may have to take into account in a particular case (and each case will have to be tested on its merits), that one of the factors may be to mark society's disapproval of the act. In that situation are you not making the individual atone because it may affect the nature of the sentence although when you come to treatment then of course the particular form of treatment the individual may require may differ from case to case? —I do not altogether agree, if I may put it that way, because if you say, for example, you must have sheltered conditions for as long as 20 years, I do not think this increases the element of atonement.

We have accepted an element of retribution but I think we have justifiably been pulled up by you about its extent and we have modified this a little bit in discussion.

731. *Professor Radzinowicz:* Cannot we make, however, a distinction here between the basic principles which regulate the concept of punishment and one of the principles may be retribution up to a point and then the content of the treatment which is applied to certain categories of offenders? To take Lady Wootton's example, the contents may vary in relation to the inadequates and yet the principle of atonement or retribution was applied at the beginning because they have been dealt with in a particular way because they have violated the laws of society. It means you have to distinguish between the concept of the punishment and its contents—between concept and contents.—I wonder if I may be very naughty and take this a little further. May I perhaps express my personal view here?

I have a personal view which coincides quite strongly with what you said and perhaps I can set the scene in this way. There is now consideration going on concerning a possible unification in the personal social services. There is consideration going on about the creation of a family service; but many social workers and social administrators are considering further unifications. What I fear is that if it were possible to create a unified personal social service instead of the piecemeal personal social services we have now, that the penal services would be left out. I think it would be a tragedy if the penal services were left out of a more closely integrated system of personal social services or one of a completely unified personal social services for this reason: We feel—I think all of us do and certainly we do in the Howard League—delinquent behaviour may often (I do not say always but often)—only be part and parcel of disturbed family relationships, disturbed neighbourhood and community relationships, a pattern of inter-personal relationships within the family or within the community that is disturbed in some way.

A very practical example is the example given to you by the prison psychologists.

They refer to Borstal boys where there was a prediction made that they would not recover, whatever you did, open or closed Borstal, intensive work and so on, because their family situation was so disturbed they were unlikely to recover. Those predictions turned out true in all but two cases and those two cases were the two cases where intensive work was done with the families. This to our mind shows delinquent behaviour is not an isolated phenomenon. The other social services have to be involved.

I may be putting forward a very unpopular view here but I feel the more magistrates become not very well-qualified social workers, the more judges become similar perhaps, the more they will be perceived to be "soft" by the community at large and the greater is the danger of seeing the penal services—if there is such a word—remaining separate from the rest of the social services. To my mind this, in terms of social engineering, is a bad thing and I think in a way the function and the most important function of the courts is to express society's disapproval and to say—you cannot do this—and not to determine in detail (and here I come back to the point), the nature of the sentence to be imposed.

732. *Mr. Justice Edmund Davies*: What does that mean—forgive me—"the nature of the sentence?"—I am all in favour of the court, because they are the guardians of our liberty, determining the length of the sentence. This is very important; but the more they spell out on, the basis of half information, and so on, exactly what should be done with an offender, the more they become—I put it rather crudely—but the more they become semi-social workers.

Chairman: You do not want judges to become involved in laying down the form of treatment.

733. *Mr. Justice Edmund Davies*: I would like Mr. Klare to give me an example of the way in which a judge delivered himself in a particular case, how he should propound his sentence, how far he should go.—I am expressing my personal view here although it does come into the evidence a little.

The sort of thing I had in mind is, that it is very appropriate for the courts to fix certain sentences, particularly those which are clearly and solely only punitive. Right, let the courts fix them. But when it comes to the deprivation of liberty in one way or another, either by supervision in freedom (which is still a minor deprivation of liberty), or deprivation of liberty in an institution, let the courts express and take into account the various factors, social and so on, by saying—you are going to be deprived of liberty for five or three years, whatever it is. But let there be flexibility within this as to how this deprivation of liberty is going to be fashioned by penal services which are more closely allied to social services and which could, in the treatment, take into account family needs as well as the needs of the offender.

734. I am sorry, you have not answered my question, Mr. Klare. I really am seeking enlightenment. What does the judge say? At present the judge says, for example, three years. The judge has nothing to do with how the three years are to be served, corrective training, preventive detention—he does not say that. Fifteen years ago he was deprived of any power to say hard labour, but he says now if he has decided upon a custodial term, whatever that term shall be. He cannot do more than that. What are you therefore advocating he should limit himself to more than he is already limited?—This is a personal view and I would advocate he limits himself to setting a term only. I think we need to re-think the borderlines between imprisonment and different treatments, Borstal, whatever—these are names. I would say the judge says, you will be deprived of liberty for a certain period. How, is a different matter. I would regard it as useful if there were a greater degree of flexibility within that. It is a framework the judge would set.

735. *Lady Adrian*: Would you include in that the quality and degree of deprivation of liberty?—Yes, I would include that in it. In my view what we need to have in the penal system is two things; first of all, social disapproval, clearly and publicly expressed, because we need these sanctions, secondly, a very high degree of flexibility inside the social disapproval

expressed by the sanction which would enable one to do all sorts of things. This would enable the authorities to try someone out in a hostel but, if it does not work, to take him back again.

736. *Chairman*: Could I suggest really we come back to this again later in your evidence when we discuss your remarks on the supervision or custody, and might, therefore, adjourn the discussion on this point until then?—Yes.

737. *Professor Radzinowicz*: On paragraph 3 I have one question to ask Mr. Klare. Is it really necessary to agree specifically what the purposes of punishment have to be in order to introduce important changes in our penal system? Can we not really introduce a great number of changes without putting down on paper in a form which must always necessarily be irritating and which must produce conflicts. Can we not like the economists and with expressing a view shape our policy according to the changing needs of society?

The Hon. S. Silkin: Just what I was going to ask.—We in the Howard League have always been conscious of your own pragmatic approach, Professor Radzinowicz, and we agree with this. It is very difficult, we agree. We were asked to give evidence on this point and tried to produce evidence. In any case I would like to repeat that we do not pretend that we are philosophers and this is, I think, the weakest part of our evidence; but we appreciate the pragmatic approach.—*Dr. Andry*: If I may add this, the progress of science lies particularly in this pragmatic approach, in the history of criminology.

738. *Lady Wootton*: On paragraph 3, does this really mean you think you could make desirable reforms without being able to put into words what the object of the reforms is, without being able to say what you are aiming at? Does your answer to Professor Radzinowicz mean that? That is a little what it sounded like, that you think you can do all sorts of things without being able to put into words what you do.—I do not understand the question. Who should put it into words?

739. I understand Professor Radzinowicz said one could sheer off defining purposes, which is after all the object of our action.—As I understood Professor Radzinowicz one raises hypotheses, tests them out and then in the light of the results modifies them.

740. *Professor Radzinowicz*: What I meant was, you can have a general objective to control crime as far as we can and give some kind of protection satisfactory to society. Once we have this common objective, is it not true to say we can reshape our policy in a very drastic way without bringing to the forefront rigid principles which may antagonise public opinion and in some ways weaken penal reform?—*Mr. Klare*: I can see a pitfall we might be moving into here. I see what Lady Wootton is getting at and I see that if we have only utility at all costs in mind we might, for instance, forget the rather useful aspect of retribution which is what stops us from intervening only when an offence has been committed and not before. I am horrified by South Africa where all sorts of things go on, or by the Nazis who did this sort of thing. It seems to me useful to have general objectives which included a statement to the effect that you do not involve the penal system unless an offence has actually been committed.

741. *Mrs. Warburton*: But you do involve the penal system in the possibility of a second offence. This is where I get rather stuck. You could hold somebody for a very long time anticipating a further offence, so it is all right once somebody has done something to anticipate what they may do in future but you cannot anticipate it before? Is that right?—I think that must be right, yes. I think somewhere or other you have to make decisions. What we would like is a flexible system which allows us to revise a decision about someone who has already committed an offence. Society may have to be protected for a very long time. We want to see a system which allows us to revise our opinion on this if the circumstances warrant it.—*Dr. Jones*: One thinks of this in the sort of terms one has to if the penal system is going to be scientifically re-shaped. Until an offence is committed, you cannot have any informa-

tion. When it is committed, you do have some information on which to make a prediction. But we cannot predict until he has committed an offence and therefore given us some data on which to work.

742. *Mr. Justice Edmund Davies*: Do you think it is morally right that you should have regard, in fixing your sentence upon a man who has committed a crime, to the risk of his repeating it? Do you put it that way?—This is where I think I would stick in the application of the atonement principle. I would feel it was justified and it would depend on the degree of probability which would probably be mathematically calculable. If it was a high degree of probability I think it would be justified.

743. *Mrs. Warburton*: My Lord Chairman, could I go back to paragraph 4 the attitude changing where it is suggested it is possible. Do you think within this there should be somewhere in the penal thinking the quality of the person to redeem himself in the eyes of himself and society? It does not seem to be very clear that many people, particularly the young, feel that they are never able to redeem their good name. This does not seem to come out very clearly. Do we put this into our thinking and, if so, how?—I think paragraph 4 did not attempt to put this concept in. You are saying that it is lacking, that it ought to have been put in?

744. Do you feel it is lacking?—Yes, I think perhaps it is lacking. Perhaps we have omitted this, although paragraph 4 was only intended to deal with deterrence.

745. *Lord Wheatley*: May I ask in relation to paragraph 5, my Lord Chairman, whether in view of the statement that in some cases protective measures are necessary only for a period, that if you have a case of a person who, to use the phrase of a witness who appeared before us previously, had been repaired, that that person should be released back into society irrespective of the nature of the offence he has committed?—*Mr. Klare*: Not irrespective. This is putting it high. We did not mean, I am sure, to imply irrespective.

746. *Mr. Justice Edmund Davies*: I think you said that yourselves in another passage?—Yes.

747. *Chairman*: Paragraph 6?

The Hon. S. Silkin: On paragraph 6, as I understand it, or really in the light of what you told us earlier, whereas it is right that the principle of giving society what it expects should be given effect to at the sentencing stage, once the sentence has been pronounced we can adopt an entirely different principle and as you put it, make life as tolerable as possible. What if society says life is much too soft for these people who commit offences and that, it ought to be harder? How are your principles affected by that situation?—This is a thing society frequently says and, if I may say so, I think society is frequently wrong when they say this, because these are people who have no experience of what it is actually like to have to serve a long sentence in prison, what is involved in the deprivation of liberty.

I suppose we can come to this a little later, but it is a very tough thing to serve these sentences and if there are remedial demands made—and this is where society is so often wrong—these remedial demands are usually felt to be very hard by the offender. The truth is that you get lots of old lags who like to do their "bird" in a cushy closed prison because it is easy. If you put them into the open prison or a prison where all sorts of demands are made in terms of modern treatment and so on, where they have to put something of themselves into it and have to make an effort and decisions and a choice, they find it is very much more difficult; so the real difference between what is tough and what is soft is misunderstood. The so-called soft measures are very often the tough measures and the tough measures are very often the soft measures.

748. What you are saying really, if I understand it, is that you would reject that possible view of society because you regard it to be wrong?—As not well-informed, yes.

749. But when I put my question very much earlier you agreed with me that in so far as you can effect a balance you do so because society expects it although you

would regard society to be wrong in doing so?—Here we get into this very difficult question again about the nature and length of the sentence itself. The length has to reflect society's disapproval, but the content I think is a different question.—*Dr. Jones*: Could I supplement this in the sense that I feel the question is indicating we should at no point ever be ahead of public opinion. It seems to me we ought to be encouraged to educate public opinion to allow them to understand that this is the way we conceive it and that it will lead to a more effective system.

750. *Lady Adrien*: In fact public opinion has to be taken into account but it is not necessarily always right and needs to be educated?—*Dr. Andry*: And also public opinion itself is divided because some more than others believe very often that the respect of the person must be upheld.

751. *Lord Wheatley*: May I get back to the word "tolerable"? I think what you said really is a subjective matter because it may vary from individual to individual but you go on to define it: ". . . this detention must be designed so as to minimise the suffering and deterioration. . . ." I presume you do not mean necessarily these two things go hand in hand—that if there is suffering there is necessarily deterioration; and secondly I would like to get your view on the view that has been expressed that for a certain type of prisoner the proper régime might be a very tough period to begin with, that that tough period may cause him a certain amount of suffering but it might be good for him at the end of the day. I would like your views on these two points.—*Mr. Klare*: I think the first question is really very difficult to answer. I must say that in my experience I do not really feel that suffering often leads to an improvement of the soul. I do not know how true this is but all I can talk about is the practical experience I have had with offenders and I do not really think that there are many who are actually improved by suffering.

Perhaps we can get to this point later, but there is an atmosphere in prison which makes people feel despised. There is a sort of vested interest which the staff have—I do not want to attack them, this is the last

thing I want, because I think prison reform begins with staff—but I think this occurs. It has been very well described in an article quite recently in *The International Journal on Social Psychiatry*, which perhaps I ought to have brought along. They describe a lunacy ward not unlike a prison and the rituals of degradation the staff felt bound to enter into to preserve the social distance between themselves and these rather threatening people who might be very ill (or very criminal). They feel "For God's sake, do not let us be like them and let us show how different we are from them". These things can cause suffering, and I do not believe that anybody is improved by that kind of suffering. I suppose it is a question of definition of suffering.

752. *Chairman*: Would you apply that to the suffering caused by conviction, for instance, as an isolated experience?—No, I think conviction may be absolutely essential. The social disapproval expressed by the conviction may often be an essential element in the way back.

753. That might mean suffering?—That might mean suffering. I am not very good at defining this word, but there is a kind of suffering which can occur in an institution and which is not good.

754. *Professor Rodziewicz*: Would you make a distinction here between suffering which is in some ways inevitable because it flows from the conviction and deprivation of liberty, and active suffering which means making them feel more miserable as a deliberate and more or less conscious object of policy. This is what you are against?—Yes, that is what I am against.

Chairman: I think this is a very important distinction which has been brought up.

755. *Lady Wootton*: You are against this in all circumstances, are you? Even if, say, you have a boy sentenced to a detention centre—not an uncommon occurrence—and when he come out, says, "well I will never go through that again", the implication that he is putting, of course, being that he was on a tough régime and he has had this experience and it has taught him a lesson. In that case he is putting the point of view (and it is true it does not prevent his going back again, as we

all know); that the misery, the suffering, the toughness has done its job. Would you say that was ever right? I think that is inherent in the original question.—I think we need definitions. I do not think nowadays that what you might call a tough régime in terms of a very active régime is bad. What I think is bad is something quite different and this can occur in even a very passive régime.

756. *Mr. Justice Edmund Davies*: And of course in fairness to you, in the last part of paragraph 6 you envisage detention, when you talk about prolonged imprisonment, and it is the deterioration and the suffering which are inherent in prolonged incarceration. Might you therefore have different stress in relation to short-term three or six months detention?—I think this is possible.—*Dr. Jones*: In supplementation, I think it is quite clear from this paragraph that what Mr. Klare had in mind in these discussions was the kind of passive punishment he has been talking about, which is inevitable from being confined a long time.

But I think a very important general point is the motive for which punishment is imposed. I think this is very important. If it is imposed for retributive reasons then I think we would agree this is wrong. If it happens, however, as a deliberate act of policy based upon some general assumption that if this is done it will result in benefit to the community and individual it probably might be justified, and deterrent punishment is under this head.

757. *Lady Adrian*: More likely to be accepted by the offender?—Yes.

758. *Chairman*: In paragraph 7 you include a point there on property.

Professor Radzinowicz: I was struck by the whole report as a very important one but I was also struck by this paragraph 7. Do you mean we have to change our attitude towards a wide range of offences, and that as we are a more affluent society our attitude must change and our penal system also change?—*Mr. Klare*: Thank you very much. I think you underline the point that as there are many more goods about than there were, it is not unreasonable to presuppose that the

degree of petty theft and petty crime will increase also. We cannot use Draconian measures against such things. We have to tolerate a certain degree of petty crime. I do not mean ignore it, but tolerate it in the sense that we do not feel impelled to over-protect ourselves against this kind of thing.

759. *Lady Wootton*: Are you suggesting it is really cheaper and better to put up with it than to do anything drastic or effective about it? Is that the implication?—It might be cheaper and better; but we are also concerned with the people who do this, who matter. I do not know how cheap it is to provide permanent hostels for some of these cases—it might be not all that cheap—but this is something our society has not done and we badly need it.

760. *The Hon. S. Silkin*: Would it be fair to take the view you say society cannot do anything about it and therefore there is not much point putting up a big window dressing act?—It could be.

761. *Chairman*: In paragraph 8 you raise a comment on the general problem of deterrents. I wonder if there are any questions?

Mr. Justice Edmund Davies: First of all, you accept it?—With reservations.

762. What are the reservations?—The reservations are that, for a general deterrent to be effective it must be regarded as inevitable or in a highly probable consequence.

763. Certainly that links up with detection?—Yes.

764. Granted a real risk of detection, you say the imposition of a penalty may have not only a particular deterrent effect on the offender but on potential offenders elsewhere. Is that right?—Yes, I think that is right though I cannot hide from you that this is an agreed document and I feel a trifle uneasy. It is very difficult, I think, to measure the general effect of deterrence and this is a very difficult area we are now discussing. I think it is very necessary, if the Royal Commission is to pronounce on this, to have more hard evidence on the effect of general deterrents than we have now.—*Dr. Jones*: I think probably the word

general is misleading because I think it is probably highly selective in the sense that it operates only for those offences where there is a high prospect of detection and conviction and also only for those in which the calculus of punishment and benefit works. Obviously for some it does not work at all. I would have thought there was a case for some very serious research on this. I think it is probably very difficult to measure it, but for us to say in this document whether it obviously works seems to me unjustified in the present state of knowledge.—*Mr. Klare*: The sort of thing I had in mind, if I may use a personal example, in the case of a man who is a very law-abiding, honest citizen, thoroughly straightforward and decent. But he is now building a garage and he is doing all he can to arrange the electricity supply so that he will not have to put in a special meter, to diddle the electricity authority. He thinks this is OK, it is perfectly all right to do this. This is, I suppose, an aspect of a very important problem in our society. But I rather think, that if someone next door to this man were picked up for this and told, you cannot do it, pay a hundred pounds fine, or something like that, he would not do it. That is what we had in mind.

765. You have said categorically—and it may be a lot of us think, however hard or soft the information at research levels, that it is a matter about which you either accept or do not accept—"so long as the measures used by a penal system are publicly imposed and involve an element of unpleasantness, it is inevitable that they will to some extent function as general deterrence". May we take it that sentence is the result of reflection by the Howard League and represents a consensus of opinion?—I think you must take it as such. I have been a little bit uneasy about the hardness of this sentence, personally, but I think you must take it as such, yes.

Mr. Justice Edmund Davies: We all realise the limitation on it, namely the nature of the crime, the emotional crime done on the spur of the moment where deterrence does not operate at all.

766. *Lady Wootton*: It is not the only risk of detection and the question whether it is an emotional crime where the calculus

does not operate at all 'but also where the public does not know what the penalties are. The man next door might be fined a hundred pounds but if somebody in another city was found out, the public does not know. How long will the public remember?—*Dr. Jones*: There is also the question of how visible the certainty of punishment is to the public. If, for example, a series of crimes is widely publicised and severely punished it gives the impression of certainty and severe punishment, whereas if they do not get reported it might very well give the opposite impression.

767. *Lady Adrian*: Does this reflect the ethics of the exemplary sentence—the view to proportionality rather than to the individual—that you give a sentence because you wish to impress public opinion in the way you have just suggested?—I think it does happen. I think it cuts across ethical principles very seriously but it is done.

768. Should it be done?—I should have thought possibly it would depend on how much certainty you had of its value and how much injustice you were doing.

769. *Lady Wootton*: You can do wrong if it works?

770. *Professor Rodziewicz*: I would like to have a clarification from the two other members. Does it mean, that because it is felt that the chances of detection are ridiculously low in certain categories of offences the court is justified in imposing very long sentences in order in some way to compensate for the lower efficiency that unfortunately we have achieved in bringing them to justice? Is there first of all a problem of utility, that this kind of initiative will be effective, and secondly, whether it will be justified, whether it does not violate in a very flagrant way the principle of proportion and justice?—

Mr. Klare: I would have thought it does violate justice. I would have thought that the question of exemplary punishment is a very difficult one. I feel very uneasy about it. I do not think in general we are justified in imposing very long sentences, as it were, to make up for inefficiency or inability to detect. I think uncertainty of detection is a very different problem

which has to be tackled in a different way and this is not the right way to make up for it.

771. *Lady Wootton*: In a court with which I was once associated, we took steps to put round on the grape vine that we were going to impose exemplary sentences and then did not impose them. —*Dr. Andry*: I was going to make that very point.

772. *Lord Wheatley*: Do you accept that the prevalence of a particular form of crime in a particular area might call for heavier sentences in that area than in an area where that type of offence was not nearly so prevalent?—*I think, only with very great reservations. This Commission is concerned with the penal services, and unfortunately it is not concerned with the preventive services. But I would have thought we do not do nearly enough, particularly in terms of stimulating community work, of a preventive kind which could in fact combat crime more effectively perhaps than the penal system which is always rather a blunt instrument to deal with this sort of thing.*

773. *Mr. Justice Edmund Davies*: Meanwhile, taking Lord Wheatley's question, living in the society in which we are at the moment, you get an outbreak of a particular kind of crime, and what then? Is there something more salutary called for than where the kind of offence is occasional and does not really present much risk to the community?—*I take the point perfectly and we cannot be so idealistic as to say this is absolutely impossible. Of course it must sometimes be done and it is called for. But I really think we do not take enough preventive measures.*

774. *Lady Adrian*: Ethically we ought to take enough?—*Ethically we ought to take enough.*

775. *Lord Wheatley*: Many factors have to be taken into account in a particular case and the emphasis you put on one factor may be different from case to case, but these are all factors that might have to be taken into account?—*Dr. Jones*: I think the discussion has centred a good deal on the factor of deterrence. I think the whole of the previous discus-

sion is based on this. I would put it another way. Increasing the certainty of punishment would be more effective than increasing the severity of punishment. (In fact a lot of people are getting away with it.)

776. *Professor Radzinowicz*: On the question of balance it seems to me, on the subject of general deterrence the effective balance is to ameliorate punishment rather than the opposite, otherwise we might give everyone who commits a parking offence a thousand pounds fine and stop parking offences that way. Society says this is impossible. Where you have an area where a particular crime is more prevalent, may not the increased severity of sentences not be society's balance working as it were in that area and society expects, because of these facts, sentences will be more severe?—*Mr. Klare*: I am not a philosopher. I suppose that retribution is a thing that works with the individual and not with society. In the sense we have used it, it is atonement by the individual for the wrong he has done, something that affects the individual; and you are really talking about sanctions which are taken on behalf of society which ignore the atonement which the individual has to make.

Chairman: I think in one sense we are coming back to where we started.

777. *Lord Wheatley*: Just one point, if I may. Is there not a danger of trying to put all these factors into watertight compartments and failing to realise there may be a great deal of overlapping as regards either the individual or other people?—*I think we are returning to Professor Radzinowicz's original point.*

778. *Chairman*: I think we agree you have made your points on 9 and 10 quite clearly and I doubt whether my colleagues will have any questions on those two paragraphs.

If that is so, perhaps we may turn now to your second very important section here. May I therefore throw open the meeting for any questions on the opening paragraphs of that section?

779. *Mr. Justice Edmund Davies*: May I jump to paragraph 4; I am really seeking information on that—without

revealing the views of any members of the Commission in relation to the recommendations. Does that mean this; that practically speaking, say a man is sentenced to eighteen months' imprisonment; at the end of the first six months there should be a review? Am I right so far?—Yes.

780. There should be a review with a view to his possible release on licence at the end of the first six months?—Yes.

781. That might mean this—the reason I am asking is that one knows certain other recommendations have been made but possibly have not found a great deal of favour—the machinery is what I am after. Some people say, no, you cannot have that; if the sentencing authority has imposed a sentence, let us say at random six years, there must be for utilitarian considerations a fairly substantial period which we say is not less than one-third before the question of release on licence can be raised; what do you say about that?—The system we envisage is not very well linked up in the way we present our evidence—we envisage a system of graded release. If someone gets a sentence of six years, the way it might go is that after six months, the case is reviewed and it might be decided that nothing can be done, but it might be decided he could be transferred to a more open prison, and this could be tried out. If there was no adequate response he would be transferred back again.

782. *Lord Wheatley*: How did you arrive at this figure of eighteen months? Is this an arbitrary figure or is it based on some conception that below eighteen months this is not practicable. What is the reason?—We thought it was the minimum period in which such a system could be operated at all; we thought that with sentences less than that it would be impossible.

783. I follow what you mean by this graded form of treatment; but theoretically a person might be out on licence who had received a sentence of, say, three years, earlier than a person would be released who was sentenced to eighteen months' imprisonment.—Yes, I suppose theoretically he might be. But he does not know this. Therefore the effect of the three

year sentence is not altogether lost; release is not certain.

784. *The Hon. S. Silkin*: You say it would be impossible to operate this for a period less than eighteen months; I have not followed what you mean by impossible.—We think the number of people who would be involved, for one thing, would very rapidly swamp the administration; because, as you know, the vast majority of people get very short sentences, and it would mean that release under licensing procedure for such a great number would be extremely difficult and the decision-making procedure would have to be extremely elaborate.

785. *Lady Adrian*: We were speaking with Sir John Barrie in Melbourne; and as far as I remember, although my memory is not good and I have not got my notes, they have lengthened the period for consideration of parole, having found it unsatisfactory to deal with them for the short sentence. There was not time enough to give them full consideration.

786. *Professor Radzinowicz*: This part of the memorandum obviously contains a very crucial thing. Does it mean that you feel really fundamentally there are too many people in prison today?—Not necessarily.

787. Or not the right kind of people?—Not necessarily. I think our proposal is based on two points. First, we want to achieve greater flexibility, and this is important. The other thing is that we think local prisons are dominated by the fact that they have to deal with a great number of short-term offenders, and this introduces a certain atmosphere into these prisons which we describe later, as sausage machines. Those were the two main considerations. We are not sure, and we say so, whether this really means a decrease in the prison population, although in some cases it might. We do not know how it would really work out.

788. An experimental proposal?—An experimental proposal.

789. I have one or two further questions to ask on this crucial point. Does it mean you think we ought to experiment, would you say, on a nation-wide basis, or have

local experiments? Would you be so bold as to say this in any legislative measure introducing the whole thing?—No. My own personal inclination is always to experiment and measure; but the difficulty about experiment and measure is whether or not the general public will accept it. If you have a system which apparently favoured some people and did not favour others, it might offend the sense of justice of the general public, it might upset a whole number of prisoners who are not going to benefit. Therefore this is a difficult point. If I had to make up my mind—which fortunately I do not—I would come down in favour of a national system but with graded release, which at least allows experiment within a national system.

790. May I ask a question on the release criteria—this is on paragraph 7. You say here that predictors will have to be established. Could you amplify a little what you mean by this and how this would be operated? Who could run it, how could it work? I should be glad if you would amplify this at least a little, as it is an important proposal.—*Mr. Klare*: I will ask Dr. Andry to deal with that.—*Dr. Andry*: I do not know that I can say anything further. Of course it is generally known that prediction is notoriously unpredictable at times. At the same time, to make a start in that area is better than doing nothing at all. As to exactly how it would function depends on whether one went all out on a limb and did this on a national basis. This of course would facilitate the possibility of comparing those particular cases where this was done with other cases where this was not done—provided one were agreed on the general policy in the first instance. The whole technique of predictive indicating is, of course, in the first instance always to establish variables, to look for the actual factors which may be involved in this, and then, as a next step, to find whether these factors or variables in fact are valid—and they may not always be.

791. *Mr. Justice Edmund Davies*: Is this not using a very technical word or phrase for the very old-fashioned common sense idea? You are considering what you are going to do with the prisoner at the end of

six months, and you want to know whether you can let him out on licence or whether he has got to go to a different type of institution. There are many factors which have to be taken into consideration first. The sort of thing he is in for must come into it somewhere; secondly, whether he is a man with a record must come into it, because that will give you some guidance as to the risk of recurrence—not necessarily a sure one, but nevertheless to be taken into consideration. Thirdly, his behaviour in custody is a factor. Fourthly, what his domestic and industrial circumstances are—is he likely to have a job, and so on. If he is released on licence are his personal difficulties going to be so overwhelming that his return to crime is predictable? You have all those things, and can you therefore establish predictors?—*Mr. Klare*: Can I come in on this? If I may say so, I do not think it would present itself quite in that fashion. I wonder if I can for a moment come back to the reason why we would prefer to see this nationally done rather than on an overtly experimental basis. If we do it nationally and the thing is working nationally, you can then do experimental work within a total national thing without causing all kinds of difficulties. But to return to your question, I do not know that the factors you have listed would necessarily turn out to be very important. If we may consider a few; for instance, take his behaviour inside. Behaviour inside will be dealt with later on in our evidence. That may be a very bad predictor, because although a chap may be as good as blazes inside, he might be terribly bad outside. This would not necessarily be one of the factors.

792. Not a factor—not even to be considered?—I think perhaps only to be given very light weight. I think the only way you can really see how a man does is to try what he does when he goes out, and some of the points which are common sense predictors may not turn out to be good predictors in the real sense.—*Dr. Andry*: This is where I was trying to make the distinction on the one hand of creating the variables, the model-building and the reality. The factors that Mr. Justice Davies enumerated are the very kind of

variables one would have in mind in order to see whether this model situation existed; but then one has to wear a different cap and see whether, in fact, this is so. And in the light of this one would have to re-adjust the model, for instance, to find out whether his behaviour inside is as important as his past record.—*Dr. Jones*: The predictors would be in a sense a systematisation of this common sense.

793. *Chairman*: Is the ultimate position you hope to have a sort of series of tables, and you look up the person concerned in the table and at certain points you will find him with all the characteristics concerned in there, and it gives you your answer?

—*Mr. Klare*: I think people do fall into categories which may change in the light of what goes on in the institution; people fall into risk categories, and it is possible to establish these risk categories, this is a diagnostic procedure.

794. *Professor Radzinowicz*: You would propose to use it as an adjunct, a source of information?

795. *Lady Adrian*: Is it not true that a predictor is not absolute but a matter of possibility; that statistically you can arrive at possibility but not at the absolute, and the absolute has got to be left to discretion?—Yes, of course. Also I would completely agree with the point made by Mr. Justice Davies, in that you may have an excellent risk, for example a man who has done terribly well inside, but he has committed the most ghastly rape and you cannot release him; therefore you have got to bear this in mind.

796. *Chairman*: In paragraph 6 you envisage that the question of release would be handled by the Governor of each prison, assisted by a small panel; and a bit later on you envisage that the person concerned would not appear before such a panel before the decision was reached. There are two questions I would like to ask. Are you happy that such a scheme would lead to sufficient uniformity of criteria to be fair; and secondly, why do you prefer that the person concerned should not have a chance of stating his case before the Governor and panel?—May I take the second question first? I think that encouraging people to state their case means they build a lot of hope on their

ability to sway and to persuade a panel. Their hopes may be dashed because in the cold light of reality, their chances are really, not good, however much they try at the time to put their best foot forward. It may even be that the man has said to himself; in six months' time I am going to appear before the panel, I am going to do my damndest not to get into any trouble during the period, and then I am going to state to the board: "Look, I have not had a single thing against me, I have been a jolly good prisoner and really have done everything I can". He thinks he has a good chance of being released, but unfortunately he is a very inadequate person, and so inadequate that the board know he is going to fall down flat on his face, and they cannot release him. I think this is a sort of climax in a man's prison life which is bad for him. We have had experience with preventive detention, and I think it causes people to feel bitter. It is however—and I would like to stress this point—it is, however, very necessary to explain a decision by the board to the man. We do not mean to imply that if the board has come to a decision he cannot be released that he has no other chance. You have to keep a relation open with the man, you have to tell him, what has happened, and that you have considered this. You have a heart to heart talk with him and tell him it is not possible just yet to let him out.

797. *Mr. Justice Edmund Davies*: May I ask Mr. Klare a personal question with regard to his credentials in relation to this particular expression of view; in other words, have you had experience of parole boards interviewing potential parolees?—I have sat in on a preventive detention board.—*Dr. Jones*: There is some reason to believe that current medical research would show that, quite in contradistinction to general experience, offenders become more co-operative towards the end of their sentence compared with what they were at the beginning. It is obvious they are coming up to a parole board and making gestures which will be acceptable, without necessarily making a basic change in their character.

798. *Lady Wootton*: Regarding what you have said about prisoners having their hopes dashed coming up before a panel;

I should have thought that when their papers come up, he might say to himself: "My papers will be going before the board, I will be the ideal prisoner from now to then". But would he not equally be utterly dashed if his papers came up and the man in the next cell was let out and the first man was not?—*Mr. Klare*: I do not think it is necessary to have these reviews at exactly six months intervals—that they should take place on 15th March and then 15th September, etc. I think these cases should be reviewed periodically. Although there will always be a certain amount of difficulty, I think it can be accepted reasonably well.—*Dr. Jones*: I should also like to stress as an important thing the point Mr. Klare made about the importance of explaining and interpreting the processes which go on in this diagnosis to the prisoner so that he knows what requirements he is asked to meet. This should be a continuous process which should not wait until he comes to the board. He should be told at some point that he will be considered against these criteria.

799. *The Hon. S. Silkin*: Is it not important that there should be some certainty about this—certainty about the frequency of the reviews, and the periods between the reviews; otherwise are people not going to feel themselves heavily aggrieved that their case takes longer to come up than the chap in the next cell?—*Mr. Klare*: I think they should know their case is examined twice a year. In fact, if you look at the way the review board would work, they could not possibly take all the cases on the same day. You are bound to have to stagger the thing a bit so that people do not come up at the same time; and they might come up in six months and four days or six months and eighteen days. I think this could be accepted. But I do agree with what Dr. Jones says that one of the things we have to do in our penal system is to open communications between prisoners and staff; and that their expectations will be much more realistic if they know that what is required of them is not just a pretence of conformity.

800. *Lady Wootton*: I have a very strong sympathy for the opening out of communications; but I should have thought

the attitude of the prisoner could be: "They have decided not to release me, what do they know about me—the half of them never even see me". That is the very great difficulty. "They", an unknown board, sitting behind closed doors, decided that they would let my neighbour out and not me. And this is just the moment when the board is preparing to open communications.

801. *Mr. Justice Edmund Davies*: I am wondering whether the experience of sitting on preventive detention boards, and considering whether preventive detainees should get one-third remission instead of their one-sixth (as is the sort of problem usually confronting such a board), is of ultimate value in relation to considering a much more fundamental question—release at the end of six months when you have a man with a six-year sentence?—*Mr. Klare*: I understand your point. What we suggest here will introduce an element of uncertainty—which could be painful, but I also think it could be very helpful. People who are serving life sentences experience this now; their cases are being reviewed now.

802. *Chairman*: I think you have made your view clear, and I am sure none of us would wish to try to persuade you to change your view. Thank you very much. The first of my two questions is about the level at which you suggest this being done by the Governors rather than any more centralised system. Could I just ask whether you consider that would produce a sufficient degree of uniformity to be fair?—I think so; because as people get experience in the famous predictors on which this has at least partially to be based, then I think it will work out fairly. Also, after all, the personal opinion and experience which the Governor has, which is a factor in all this, is going to be a factor in any decision-making by a central authority also. The disadvantages of deciding by central authority is that it will build up an enormous, rather remote and perhaps bureaucratic machinery when this could be decided quite well locally. And also I think experimentation will be much more easily done if it is done at the level of the prison.

803. *Professor Radzinowicz*: There is also another factor, regarding to its acceptance by society. There would be greater chances of its being accepted if it were considered on a regional basis, and that would be another argument in favour.—In favour of doing it locally, yes.—*Dr. Jones*: And it may be very much a local question of prospects of employment and the special situation locally.

804. *The Hon. S. Silkin*: Various things presumably could be given weight to by a national board. I wonder whether you have come across the particular aspect of the matter which we did, some of us, in the United States, where there are two areas with conflicting systems. There we were told quite frankly in one establishment that, where the decision is made by the local people, it depends very much on the question of whether the prison is overcrowded or not—their whole policy depends largely on that. Have you come across that, or what weight would you attach to it?—*Mr. Klare*: I am sure this occurs, I would hope it would not be an effective criterion in the working of the system.

805. *Chairman*: What you are suggesting in your paragraphs 9, 10 and 11, I think, is that some members of the prison service could become involved in supervision on licence—that would be on a local basis there. Have you considered the alternative, that prison officers might be seconded to the probationary service; or do you see them performing both functions at the same time while continuing their prison work?—I see great value in the concept of an institution being enlarged, and I see great value in the fact that staff members of an institution could penetrate into the community and have a constructive role to play inside the community. There is another point. I do not know how easily ordinary prison officers could be absorbed in the probation service, they do not have the training, etc., but we think their role is equally valuable. An American experiment has shown the different way in which people communicate—differences by class, as it were, working class people can communicate much more easily with working class people rather than with the more middle class probation officer or

social worker. There is also great value in helping prison officers to undertake this positive constructive job, which makes a difference to their own concept of themselves; that they are not just turnkeys but are involved in something much more important. This seems to me a good thing.—*Dr. Andry*: If I could make just one more point. There seem to be two functions involved, one of which in an old-fashioned way we could regard as the almoner's function, to be applied very often, once a person is under such supervision; and here some form of secondment, if this were one of the systems to be considered, could certainly be performed by prison officers. On the other hand there is a different kind of function to be performed whilst a person is under licence, which is not an almoner's function, but a social worker's function. Here one may look to some, but not necessarily most, prison officers—it would need to be a different kind of person with very skilled training. A person under licence may require one or the other type of supervision but not necessarily always the social psychiatric worker type of supervision.

806. *Lady Adrian*: Have you any experience of the establishment of a parole officers' service?—I have seen a little in the States.

807. *Mrs. Warburton*: I would like to ask Dr. Jones, through you, whether there has been any statistical evidence of the success of this experiment, where in fact it is happening, that selected officers supervise people who are on release, working with the probation officer?—*Dr. Jones*: I hope the Commission will bear in mind how important things like this must be evaluated. It is extremely wasteful and improvident to carry out experiments of this kind and never to find out whether they are of any value. I do not think any evaluation of this has taken place, except that you can see what happens. I would like to say, however, that on this issue I have some strong feelings. It seems to me the issue is not as narrow as it is in this document. It has many implications for the institution itself. If the staff members of the institution work also outside, this gives them

a concept of the problems of prisoners quite different from what they would get if they see them only within the prison walls. The big obstacle, it seems to me, is the fact that prison officers are naturally preoccupied with the problem of ordinary good behaviour in the institution and things of this kind, because these on the whole are the only things that come within their experience. But when they begin to see the community and family situations of the prisoners, their whole concept of the problem is inevitably bound to change. I think there is a great deal to be gained on all grounds.

808. *Lord Wheatley*: The review procedure is operated in at least one of the States of America, where parole officers go in and serve a period of three years with the prisoners there so that they can see the life of the inmates in the prison and have a better appreciation of the difficulties and problems when they go outside.—*Mr. Klare*: That is right. The final argument is that the prison staff too are prisoners. They spend their lives inside, and this is terrible. They ought to have a chance to work outside.

Chairman: Thank you very much; you have expanded that very usefully.

809. *Lady Wootton*: I should like to put a question on paragraph 11. I was very interested in the American work on the matching of prisoners, and I wondered if you would tell us a bit more about it.—It is a pity I have not brought the thing along. This happened a few years ago, and what happened was that a number of prisoners were

810. What prison was this?—*Dr. Andry*: It is the American Navy experiment.

811. It would be helpful for us to know more about it.—Without having the details in my head, what they did in the navy experiment was attempt to match personalities with the prisoners, arising, if I remember rightly, from the work of Grant and Sullivan. The central core of the argument is that people have different levels of integration processes, hence the I level—nothing to do with the eyes but with the integration aspect of this. It was found not only that prisoners—or offenders

in this case—were held up at a certain stage of their integration process because also those who were controlling them were differently held up at certain times in their general integration level, therefore this required a matching process between those who were less nimble-minded, if I might put it that way, on the staff side and those who were less nimble-minded on the offenders' side on the assumption that they made a good pair in understanding each other, as distinct from those who were not matched both on the staff and the prisoners' side—the results showed some usefulness of the techniques not by much, but at least by a little.—*Dr. Jones*: There has been a study of this kind over the last period in this country. It is not completed yet, but it has been carried out in the Sheffield probation service in association with the Home Office, and the results have been extremely interesting: It is possible to match the probation officer's personality to the probationer in such a way as to match their I's.

812. *Chairman*: I think from paragraph 13 to the end of this section you deal with an alternative procedure that you call a supervision or custody order; and I expect some of us may have a question or two to ask you under that general heading.

813. *Professor Radzinowicz*: How would you sum up the distinctive features of the second scheme?—*Mr. Klare*: The distinctive features are that it introduces a still greater element of flexibility, and that it limits the need for decision-making of the court even further, because the court does not even choose as between supervision and custody but only lays down the maximum period.

814. There is a point here. You would expect the court still to assess the innocence or guilt of the offender?—Yes.

815. This you would regard as a vital function?—Yes.

816. Once a court has said this man is guilty, it also says he has to be convicted—that is part of it. Now what else would the court say? Would the court under this scheme say: "No, we have finished with you, you belong to another board; other boards will deal with you and also follow

you up"; or would you say the court can still do something more?—Yes. We have envisaged in this document that the court should, in fact, give certain decisions which are perhaps concerned with simple deterrents, including the imposition of a fine. But when it comes to more complex matters and where there are treatment considerations we would say the court still lays down the time limit. In other words, nobody can be kept either under supervision of one kind or another longer than three years, or whatever it is.

817. You said a fine—what about probation?—Not probation; that is supervision in liberty, supervision in freedom. If you look at paragraph 16. . .

818. I want to be quite clear about this. Would probation still be in the power of the court?—No, it would not. The court would make an order of supervision or custody, and that is all. It would then be up to someone else to decide whether it should, in fact, be custody. This is the advantage of a scheme like this. We have been discussing the system of release under licence; this means that you always start inside and you always finish outside. The system which we tentatively put forward here would still get the courts to fix a time limit; but would allow a sentence to be served by trying an offender outside, and if it does not work you put him inside. Or, on the other hand you could start him inside and let him out.

819. Do you come down against the system now but think it is possibly relevant for the future?—We put it in because we felt that public opinion would not accept this system today; but we thought it was something that ought to be borne in mind and it ought to be considered eventually; and will, we believe, eventually arise.

820. *Lady Wootton*: Then eventually you really think the principle is the better of the two? In paragraph 18 you say, "The procedure has the advantage over our first proposal (which we prefer). . . ." I presume this means your previous procedure, the first one. One gets the idea that what you really mean in your heart of hearts is that you prefer the second, but you do not

think the public will wear it yet?—That is exactly it.

821. *Chairman*: There is one thing I am not quite sure about. Would you envisage cases where the court would feel so sure that probation only is required that they would give a sentence of, say, 18 months, for the sake of a probationary period?—No, I do not think so. I think the court may well indicate its preference, but in the end it would not under this system be hove the court to decide this.

822. Ever?—Never.

823. *Lady Wootton*: Even if the court makes a decision it does not finally decide it?—No, because there must be complete flexibility. If I could add another point on what I think Lord Wheatley raised about this system not only allowing those inside to look outside, but also those who are outside would look inside; it would integrate the penal system with what goes on outside. Those who are outside would constantly also have to bear in mind what goes on inside.

824. Would you go so far as to say that the board who have to decide would not only decide whether supervision should be inside, but would also be able to decide whether inside meant inside a penal institution or inside a hospital?—We have not really thought about this; my own idea is that the court would make a supervision or custody order and then I think it would be quite possible to say: Right, this is a sort of betwixt and between thing; it is still supervision; but it is, as it were, a probation order with a condition of residence at a mental hospital.

825. That would still give flexibility and you would go as far as that?—Yes.

826. *Lord Wheatley*: I am trying to follow up the point of the practical possibilities and what you envisage for the future. We do know of a system whereby the court may impose a sentence and then the person is sent either to a diagnostic centre or a probation and guidance centre and his programme is determined as a result of this examination there. That may mean that after a relatively short time he is allowed out, subject to recall if he does not conform. As I understand your proposal, what it comes to is that the same procedure

could be followed out, but after the examination at the diagnostic or reception centre it might be decided to send him out first?—Absolutely.

827. With the right of recall?—Yes.

828. *The Hon. S. Silkin*: Going to the diagnostic or reception centre is not necessarily being in custody?—No, it could be, as it were, an out-patient.

829. *Lady Adrian*: You would not rule it out that the court could say that this is such a serious case from the point of view of the protection of society that there must be at least a period in a prison?—I would not rule it out. I would not rule out the power of the court to say this, and certainly this factor would have to be taken into account by the final decision-making body. In a case like this, when the court said this, it would certainly be given very heavy weight; but the principle of this is that the actual decision is not for the court.

830. But the court would have the alternative of a prison sentence or supervision and custody?—No, the court would pronounce one sentence.

831. *Mr. Justice Edmund Davies*: I would like you to look at the last sentence of paragraph 17; you there envisage exactly what Lady Adrian was putting to you?—Yes, I beg you pardon; that is quite right. These are the exceptional cases which would be laid down by law.

832. *Mrs. Warburton*: Would they be laid down by law according to the gravity of the offence or the nature of the person or what? This is a fundamental point.—I think the gravity of the offence.—*Dr. Jones*: I rather disagree with Lady Adrian's use of the words "protection of the public". That is something involving the technical question of whether he is likely to commit another offence—a serious offence. If the courts do it they do so on grounds of retribution, that is the offence has been so serious that the individual ought to go away for a long time. I can understand the court doing this, but it would be a technical question whether it was necessary for the protection of the community and something that ought to be studied.

833. *Lord Wheatley*: Apart from these exceptional cases to which you refer, the sole criterion should be the treatment of what I might call the patient?—*Mr. Klare*: The sole criterion would be what happened within the time limit laid down by the court.

834. That means, in effect, you are eliminating the factor you conceded at the earlier stage—namely, public disapproval?—No, not a bit.

835. I am talking of those cases other than the ones you exclude?—No.

836. *Lady Adrian*: Surely the length of time during which the sentence says the offender's liberty should be forfeit, so to speak, would be three months, three years, six years or twenty years, and that would express the opinion of the community?

Lord Wheatley: I do not want to argue, but I do not agree.

837. *Professor Radzinowicz*: Would you say that after all it is the courts who are going to assess the guilt or innocence of the person and that therefore the moral reprobation under your scheme would still be reflected in this very solemn decision by the court. But the choice between custody and supervision is removed from the court and devolves upon an administrative system and not a display of disapproval?—I would go further than that. I would agree with Lady Adrian that in fact there is bound to be a difference felt by the offender and by the public if the court solemnly says, "Not only have we found you guilty and convicted you, but in one way or another you will be deprived of your liberty for 20 years in the one case or for two months in the other".

Chairman: I think you have made that point very clearly.

838. *Mrs. Warburton*: That is what happens when you have sentences plus probation in the lower courts in California—short-term sentences only.—What we have in mind here is the sort of system which allows the courts to assume, to concentrate if you like, on the role of disapprobation which is proper to courts. Someone has to do this in society. We cannot let people get away with it; but it would allow a very flexible penal system

to be married up more easily with the other social services.

839. *Lady Adrian*: Is it not there in the Lord Chief Justice's suggestion in the debate on the Hanging Bill, when he wanted to reserve to judges their power to express their opinion to the authorities and to recommend minimum sentences? Is he not expressing the same thing there—the disapprobation of the community in relation to the gravity of the offence?

840. *Mr. Justice Edmund Davies*: I am worried about this. I cannot, my Lord Chairman, put the matter without jumping to paragraphs 24 and 25; they are integrated. In paragraph 24 you stress, "... we have always preferred a sentence pronounced in open court. ..." May I add a footnote? I take that to be you attach value to the immediacy of public pronouncement of sentence following a verdict of guilty. It is important from the public point of view, the publicity attendant and so on and the immediacy. Apart from cases where you may have a remand for reports and so on, you have promptitude and publicity. You appear there to regard that as a state of affairs of some public value. You go on to say, "... we have always preferred a sentence pronounced in open court to trusting experts—still sometimes a dirty word". Then you go on to say you hope and believe that diagnostic and treatment skills will improve in time. "When it is demonstrably so, it might be time to devise a system which allows specialists to get on with trials and the finding of guilt and specialists in behaviour to get on with diagnosis and treatment". Why this second system, which I gather you prefer? Why not, say the judge says X months, X years, and he is finished with the public pronouncement. The public knows the sort of consequences for that kind of wrong doing; and then you have your system—your parallel system?—This would be an improvement on the present system; but the system which we have suggested as being ultimately possible allows you to do what I suggested earlier, namely, to start a sentence outside and then call the offender back because it does not work: something which is not possible at the moment: there is simply no such sentence. The Com-

mission might invent such a sentence; a sentence X which actually starts in liberty but gives the possibility of being turned into a prison sentence if it does not work. Really the basis of our proposals is the desirability of having a very flexible system.

841. *Lord Wheatley*: Does it not work at the present time, with probation and the possibility of going to prison?—Not really.

842. A suspended sentence, I mean?—We do not have a suspended sentence at the moment. The difficulty about the suspended sentence is that it introduces an extra element which would not be in this one.

843. All I am trying to bring out is that under existing procedures you have this system you are envisaging; but it is imposed by the court and not by an administrative or executive body currently the court says, that it shall give you a period during which you will be at liberty, perhaps under supervision, and perhaps not, and if you behave yourself, good and well; if you do not, you can be brought back and serve a sentence.—I think that gets near it; but perhaps I have left out another element and perhaps I ought to re-express it. Our courts are becoming much more humane, and although this is very desirable it has its disadvantages. It has disadvantages because, to my mind, the more humane the courts become, the more enlightened the judges become, the more in the public view this may look like softness, and you may get people saying: "Look at these judges. They are all becoming like social workers—this is terrible".

844. *Lady Wootton*: I should like to ask Mr. Klare if he would define a little more clearly some of the terms he uses. You say that the sentence might start in freedom under supervision, but if it does not work the chap can go inside—and if he does not behave himself he has to go inside. Are you thinking there would be the general conditions of a probation order to observe; or are you thinking of any conditions; or are you thinking of leaving this completely open? Then who is going to judge whether it has worked? What are you envisaging?—I think if one limits this to certain conditions it again becomes rather

rigid. I mean that the supervising agents might feel that someone on probation is, in fact, not responding, and that the first chance he gets, he is going to do something. He may need something rather more intensive—an institution. One of the advantages of putting people into an institution is that you have got them there the whole of the time and you could, if you so desired, influence them more powerfully and also positively, not only negatively. The decision as to whether to increase the intensity of treatment is one that should be left to the discretion of the supervising agent.

845. They would make it without any clearly defined criteria? It would be a matter for their expert judgement as to whether a chap was responding and doing all right?—I think eventually they would do this. That is why we say, not now; our knowledge is much too limited.

846. *Lady Adrian*: Is there not an argument there for the expert advising the judicature? Is it safe to leave it to experts entirely?—This is the 64,000 dollar question.

847. *Mr. Justice Edmund Davies*: Might it not be that a parallel system, whether with or without interviews with the applicants, by a parallel board would dispense with the necessity for the second, in the future scheme you are envisaging?—I do not know. We do not know how we will feel about this in 20 years' time; but in loyalty to the document and to my own organisation, we would put the first system first.

848. Parallel?—Parallel—and this was only the second. You challenged me as to how I really felt in my heart of hearts, and I expressed my opinion.—*Dr. Andry*: If I might add a word and say that whether the public will be happy or unhappy about it is one criterion; but there is another criteria, namely, the opinion of offenders, if one talks to many offenders they themselves seem to have some sense of equity in this; and they seem to admit to themselves that at certain stages they need the support of institutionalisation and that there are other stages when they need the support of being helped outside—if honest with themselves they admit often quite openly if interviewed privately in prison that there are times when they feel they must probably come back in again.

849. *Chairman*: No doubt some would; but on the other hand the fact remains that many would rather say: Let me take my medicine, let me know exactly what it is and have done with it.—Of course different types of offenders would have distinctly different views on that.

Chairman: It is obvious we cannot do justice to Section D today; therefore I think I must warn you we would like to ask you if you will give us half a morning or half an afternoon someday if we can negotiate one in the near future. We would hate to take Section D at an absolute gallop. In that case I think we had better break off now, as we have a meeting of a sub-committee this afternoon.

(The proceedings were terminated)

EXAMINATION OF WITNESSES

Tuesday, 8th December 1965

Witnesses: Mr. HUGH KLARE and Dr. R. G. AMOREY

Present:

The Rt. Hon. Viscount AMORY, G.C.M.G. (*Chairman*)

The LADY ADRIAN, D.B.E.

The BARONESS WOOTTON OF ABINGER

The Hon. Mr. JUSTICE EDMUND DAVIES

Mr. T. L. IREMONGER, M.P.

Mr. R. E. MILLARO

Professor L. RADZINOWICZ

Mrs. B. SEROTA

Mr. A. ALEXANDER, O.B.E. (*N. Ireland Observer*)

Mr. A. J. E. BRENNAN (*Secretary*)

Mr. D. F. INGLEY (*Assistant Secretary*)

850. *Chairman*: It is very good of you to come along and give us the opportunity of asking you some further questions, and it

was very good of you to switch the time to meet our convenience. We are very grateful to you. We would like, if we may, to start

on section D of the excellent evidence you sent us. That is headed "Some Proposals Regarding the Prison System". I should like to ask my colleagues if there is any question which occurs to them immediately that they would like to ask at the outset.

Mr. Millard: I have a question on paragraph 4, but no general one.

Chairman: I had a question arising more or less from paragraphs 2 and 3 which concerned the very important matter of the typing of prisoners and classification. Perhaps you would care to tell us something more of the kind of machinery you would have in mind to carry out these important processes, compared with the present method?—*Mr. Klare:* We base our proposals on the assumption that there will not be prisoners serving less than three months. If you remember, we suggest elsewhere in our evidence that sentences of three months or below ought really to be abolished and that substitute for these sentences should be found, or else that longer sentences be imposed. This would allow a process of classification to go on at the receiving point, i.e. the prison. I have hesitations about the remand centres. They are places where people have interviews and are looked at by specialists. The staff does not have a chance really to get to know the inmates at all. This may be the very first introduction into a place of this kind for a young person between the ages of 17 and 21, or for some older person. The first impact might be destructive because, in terms of human relationships, remand centres are less good than ordinary institutions. It is, for instance, significant that whereas in a Borstal where you have pretty well the same age group the staff should be dressed in ordinary clothes and not in uniform, whereas the staff in a remand centre are dressed in uniform. In some way, this emphasises the social distance which exists in remand centres between the staff and those they look after.

851. Does that imply that you would prefer that the staff in remand centres did not wear uniform?—It is not just the uniform but what the uniform stands for. If you work in a remand centre, you spend your day on escort duties and taking

people to different rooms. You lead them into an interview room and back again, and so on, but you do not actually work with them and you do not relate to them. Also, I have a criticism to make of the way in which some of the work in remand centres is done. For instance, you see inmates face to face only; the psychologist sees them and the doctor sees them, and the Deputy Governor or the Governor, but only rather briefly; but they are never seen in a group. One of the values of a group situation is that you see people interacting; there are facets of their personality which emerge because of the way they relate to each other; you get an impression of a person in a group which you do not get in a face-to-face interview. But my main criticism is that we may have gone and done the wrong thing. We have set up remand centres because we have said some prisons are so awful that we cannot diagnose young people or even adults in prison conditions. This means that we are depriving people of the opportunities for work, because there are not enough workshops and the opportunities for work are far less in a remand centre than in a proper prison. I would, myself, prefer, once we get rid of the short-term prisoner, to have wings in ordinary prison buildings with the workshop facilities which exist, or which ought to exist, in a modern prison. The fear of possible contamination by other prisoners in these workshops is exaggerated. This system of giving people at the start the idea that the prison staff are remote, unknowable people, is unsatisfactory. I would personally prefer to see them started off in wings of prisons, with specialised staff. This means you have to have a psychologist in all the larger prisons. If we are going to have regionalisation, this ought to be quite possible.

852. *Mr. Millard:* Mr. Klare, do I understand you are in favour of pre-sentence classification, or do you lean towards the post-sentence classification in your wings of prisons?—You are suggesting, are you, that it might be going on in some way such as classification goes on, for instance, at the London Remand and Classification Home? There is a good deal to be said for this procedure because it saves time.

Mr. Millard: I had in mind the American idea of guidance centres, where they go for perhaps 90 days after sentence, and I wondered if you favoured the pre-sentence or the post-sentence classification.

853. *Mr. Justice Edmund Davies:* One question is inexorably involved with Mr. Millard's question. Have you made up your minds who should do the sentencing?—Going back to our previous evidence for a moment, the point of view which I put forward was that I hoped the courts might be able to fix the time and that the content of the sentence would be fixed by experts.

854. Then you say you have not thought about it, but I take it from your attitude that it would be a post-court appearance anyway?—*Dr. Andry:* Very much so. On the other hand both pre- and post-court investigating are necessary depending on the problem under examination.

855. *Lady Wootton:* The court would really only be concerned with the protection of the public—"This person ought to be put out of circulation for so many years". Regarding the difference between what we call medical and what we call penal treatment, do you think it might be a good thing if the executive authority in charge of a prisoner could switch him from one to the other as they thought fit, or not?—*Mr. Klare:* I suppose it could be so. I have not thought about this, but there is a certain amount of flexibility now.

856. Theoretically, anyway.—In practice too, because we know quite a number of prisoners who at some stage are found to be. . .

857. Section 72?—Yes.

858. *Professor Radzinowicz:* Does it mean that you are in favour of indeterminate sentencing?—Not really: we think the length of time must be laid down in the sentence.

859. This would be a maximum length of time?—It is indistinguishable: it is the length of time, because we envisage that a sentence would be, let us say, five years, but it is possible that someone serves a spell of time inside, is tried on the outside, is called back and so on. The whole sentence is five years.

860. *Lady Adrian:* Would it be possible that they could start on the outside?—Under our second proposal it would; but this is not official Howard League policy.

861. In that case, who would decide whether, and at what point, custodial care was necessary?—That means going back to the previous evidence.

862. *Chairman:* We will not ask you to go back and give us evidence already given, if you remind us of the answer you have given.—We have not actually gone into this point, but it is to be found under B, paragraph 19 and onwards, where it says, "the procedure might be as follows. . ."

863. This is all under the supervision of the custody procedure?—Yes.

864. You were just referring to the post-sentence classification procedure being carried out in a wing of a prison.—Yes, I think it would be very useful if people during the period of classification were not so thrown on to their own devices as they are at the present moment. It would be very useful if they had opportunities to relate to each other and to relate to staff more meaningfully. This is not easy to arrange but if the whole centre is geared to escorting people and so on—there is hardly any staff there, and there is a great deal of locking up—then you run into difficulties such as at Ashford.

Mr. Millard: Or Brixton.

865. *Lady Wootton:* I would like to raise one fundamental aspect of classification. What do you think are the limits of classification? We are tending to classify more and more skilfully—not as skilfully as we should wish, but we are always trying to improve. Life consists of getting on with people who are entirely different from yourself, utterly tiresome in what you think are different ways, or at least different ways from your own, and, perhaps, likeable in ways in which one is not likeable oneself. Life consists in getting on with all age groups and all kinds of characters. Can classification be carried too far, so that you are putting all your people with psychopathic tendencies together because they want some treatment, and you are putting your low intelligences together because they need to be stimulated and given special help

with intellect training? I would like your views on the limits of classification. This troubles me sometimes because I think we have gone classification mad. If one could be classified in life it would be marvellous, but unfortunately we cannot.—*Dr. Andry*: I see the point Lady Wootton is getting at, sometimes we classify in everyday life situation more than we tend to realise. For instance, in the Army we would not normally have in a certain echelon anything but a lot of extroverts, thus there is a natural selective process based on some form of classification.

866. A mixed classification, we can call it?—*Quite*: when applied to selection for particular jobs, or for attempting to cure certain people, the whole question of classification becomes less threatening and more meaningful in the context of everyday occurrences.—*Mr. Klare*: I can see exactly what Lady Wootton's view is on this. I have, myself, put forward the view that there is a good deal to be said for having heterogeneous groups rather than homogeneous groups. I used to hold this view, and I put it forward in a little book I wrote at one time.

867. Yes, I was really starting from this. But now I am not so sure. I think we have to face a special task. After all, the purpose of the exercise is the protection of society. It is not the purpose of life in general to fulfil some sort of special function of this kind. But here there is a special purpose. We have to succeed in a specific time as life need not. We are bad at succeeding, and one of the things we must try to do through classification is to maximise success possibilities. That is why I think we may have to classify to some extent. I fully see your point, Lady Wootton, about the difficulties of grouping people of low intelligence, for example. This is something where care has to be taken. I have seen boys in special schools for low intelligence, and they do quite well in this sheltered environment. But when they go out and find themselves in the ordinary world it is often very tough going.

868. You have to train the others to take them.—I think there are limits to classification, and the points which we

have put forward ought not necessarily to be too strictly followed.

869. *Lady Adrian*: Could I put it quite bluntly from the point of view of society. Are we succeeding by all this classification and putting a certain type of offender together?—I would like to quote an American experiment—I expect Dr. Andry will be able to give you chapter and verse. Two American institutions of different types were compared. One was a Highfield type institution, the other rather like a detention centre. They got quite similar results—not very good—and then, through careful classification both got better results.

870. *Professor Radzinowicz*: Putting aside the necessity of classification for extreme cases, would you not say, if you had to choose between classifying people in a big prison and having a smaller community, you would prefer to have smaller communities rather than big communities with systems of classification?—I like small communities.

871. *Chairman*: Following that further, the Professor seemed to be asking, I thought, to which you attach the most importance—the smaller community or the classification principle. Is that so?

Professor Radzinowicz: Yes, if you had to choose.—It is a very difficult question to answer. I do not know how I would answer it. Really, treatment is very much in its infancy. For instance, group counselling in my view does nothing other than open up communications. It is useful not so much for the prisoner or the Borstal boys, in helping them towards a change of attitude but in getting people talking in an institution where they do not really talk. Group counselling could perhaps be used in many institutions, though I think more specialised treatment would probably require more specialised institutions. This presupposes classification.

872. *Lady Adrian*: It is possible there is something therapeutic in the small community because prisoners are mixing with different types.—The real problem about prisons is that they are destructive. One of the things we have to do is to diminish the degree of destructiveness which exists in any penal institution, small

or large I think this is easier in a small institution than in a large one because people know each other, or can get to know each other, and they can talk to each other. I referred briefly last time to an article in the *International Journal of Social Psychiatry*. In the last issue, there is a description of a mental hospital, of a chronic ward of a mental hospital, which deals with the staff's attitude to these rather difficult chronic patients. What is described is the feeling of anxiety which the staff have and the defence which they develop so as to show that they are very different from these bad and dangerous characters. They indulged in what has been described as degradation rituals. A friend of mine, a prison psychologist, has described role-stripping rituals in our own prisons. Whereby prisoners are stripped of all those things that distinguish them as individuals outside. There are many things that go on, the reasons for which are not really understood, but they have symbolic meanings. The staff might find it very necessary to accentuate their own goodness as opposed to the badness of the prisoner. Even a smaller institution will not overcome this if you do not open up communication in some way, whether you call it group counselling or not. I think the basic principle of prison reform is first of all to cope with staff anxieties. You must start with ordinary staff and help them. Governors must help uniformed staff to cope with these difficult jobs and encourage them to talk about their anxieties about this.

873. *Chairman:* We may come up with some more questions on that later under your heading of "staff"—*Dr. Andry:* May I add a very quick rider in answer to Lord Amory's earlier question on the pros and cons of the wearing of uniforms by prison officers. Inside hospitals nowadays the same sort of questions are being asked as to whether one should wear a white coat or not. As a compromise the wearing of name tag labels is a small point in this, but it has helped enormously. It is not so much of importance whether one wears a white coat or not or a uniform that people worry about, but its de-personalising effect. Thus the fact of wearing a name label has made a great difference in facilitating

communication irrespective of whether a white coat is being worn.

Lady Adrian: Yes, this has just been instituted in a hospital with which I am concerned. It seems to have made a great difference.

874. *Mr. Millard:* It is the practice in America.—Yes, and even in the Army, where people in uniform wear a name label.

875. I wanted to ask a question on paragraph 4, where you go in for the rather sophisticated method of classification in groups A to E. How far do you think it is really practicable, when you have the individuals before you, to put them fairly firmly into one or other of these five groups?—*Mr. Klare:* This is something we need research on. We put this forward as an experimental proposal. These classifications were based on treatment potentials, with a possible concept of treatment.—*Dr. Andry:* The advantage would be that if one could begin to sort offenders out in the instance of C, one would not necessarily talk about treatment so much since a different problem is involved namely that of re-education.

876. I fully appreciate the problem. I was going to the earlier stage of the difficulties of making a genuine classification with the mass of material on background history, and so on that would be needed in order to put A, B, C and D into their respective categories.—*Mr. Klare:* It would not be as difficult as all that, Dr. Andry ought to answer this really, I think.—*Dr. Andry:* We simply do not know the perimeters at the moment. Gradually we must get to know the problems in front of us and after having isolated the variables (or factors) we must then carry out research to find out into which categories various groups of people may fall into. This in itself, I think, would help enormously to make the next step forward easier, and if there is then confirmation of the existence of sub-categories of different types of offenders then their different needs would have to be catered for in different ways.

877. You have 100 persons in the classification centre. In order to arrive at a genuine classification you would need a great deal of background material surely?

—*Mr. Klare*: Yes. This is another reason why we would like to see wings in ordinary prisons where this classification process could go on—not remand centres, because we have only eight or nine or ten.

There are perhaps 50,000 receptions per year, overall; but if you took these at the level of the individual prison, you have only comparatively few receptions each week, which is much easier. This presupposes that we develop a regional system and that people sentenced in the South-West would, in fact, serve their sentences in the South-West. It would be fairly simple to allocate them to A-, B-, C- or D-type institutions in these circumstances.—*Dr. Andry*: And if it is post-sentence classification the speed aspect would not worry one so much by comparison with pre-sentence classification where speed is an essential factor.

878. *Chairman*: The period a prisoner spent in undergoing classification would be part of his custodial treatment?—Yes.

879. *Professor Radznowicz*: Is it not true that some classifications overlap to some extent?—Yes.

880. If you take, for instance, category C—prisoners whose delinquency is basically social or cultural in origin—this is a much larger group than A or B, and it also overlaps with both: so it ceases to become a classification. It may be a little of this, and a little of that—it is a kind of cocktail. I am not criticising the attempt, because I think it is extremely difficult to classify human beings. But I would like to know to what extent this classification is an intellectual exercise which helps us better to understand the prison population; and to what extent it is a proposal to classify them as a matter of practical penal policy.

—*Mr. Klare*: We put this forward as an experimental proposal. Your analogy of the cocktail is right, but even in a cocktail there is a base of gin or rum, and you can probably decide in most cases that, on the whole, this chap is rum and that chap is gin.—*Dr. Andry*: The analogy is very close since this can be confirmed in an analysis of variance technique or a factor analysis where one can see in statistical terms how much of this or that factor is accounted for in terms of the total variance.

881. But you do not recommend it to us as a basis of classifying the prison population, do you?—*Mr. Klare*: We put it forward as an experiment that ought to be tried, measured and evaluated to see whether as a result we can reduce recidivism marginally.

882. *Mr. Millard*: Reduce recidivism and presumably maximum custody?—That would apply particularly to category E—the sort of burnt-out people who ought not really to be inside at all.

883. *Mr. Justice Edmund Davies*: What would you do with the large category of persistent petty offenders. Most of us would agree that for that sort of public nuisance certainly the maximum security prison is not at all appropriate. But what would you do with him? This is the sort of fellow who gets in through the backdoor in the afternoon when the housewife is out shopping, or goes along the clothes line and takes something from it. What would you do with him. Anything at all?—We were thinking of the sort of people who, at the age of 50, have already had 20 or 30 convictions and who have perhaps, stolen £100 worth of goods in all their lives. These are the people who ought to be in permanent hostels and sheltered employment, rather than in prison.

Chairman: As you have referred to in paragraph 10 of this document. Does that not really cover the recommendation for this type of case?

Mr. Justice Edmund Davies: Yes, I see. Thank you.

884. *Chairman*: I would like to ask you to tell us a little more about the role of the small Swedish-type prison that you envisaged here, as recommended in paragraph 5 of your evidence. How much would you expect such a prison would be able to do for people? I take it you are hoping that those who would be in such a prison would get something out of it in the way of positive improvement in some way or another?—I doubt it. If you look at Swedish prisons you have an impression that they try to reduce indignity and destructiveness; there would be places which would do less harm than ordinary prisons in this country. But whether they would do positive good is rather doubtful.

People may cease to be recidivists, but for reasons which are not necessarily connected with this type of good prison. The number of those who can be actively helped is probably rather small. It would be naive and idealistic if we thought that this type of prison would do a great deal of positive good. I am not saying there would not be prisoners in such a prison who, for instance, would not meet a nice prison officer they liked and who would somehow build up a relationship with a chap like that.

885. But in general your proposal is based on no further ambition than decreasing the harm that another type of prison might do?—That is all, yes.

886. *Lady Wootton*: And discounting the general awfulness inherent in destructiveness?—In so far as the penal system deters, we feel this has to do with social disapprobation rather than with awfulness.

887. You put your money on social disapprobation in general?—I have met so many old lags who have said to me, "The next time I am due for preventive detention, I am not going to do it again". And three weeks afterwards they did it again. The fear of awfulness did not work—though, with them, neither does social disapprobation.

888. I was thinking more of the general deterrence not so much for the old lags but for the rather wobbly member of the general public who, once he learns that these prisons have nice clean workshops, decent accommodation, and so on, thinks this sounds rather good. This seems to destroy the general deterrence not perhaps for the highly conscientious citizen who does not need deterrence anyway, but for the rather vulnerable man.—It depends on the types.

889. You see, it is sometimes thought of as being "a nice holiday". I put this to you because it happens.—I do not know how many people enjoy loss of liberty—and whatever may be said this is loss of liberty. There is also a general element of degradation. I would hate it, not really because it is so awful inside—because after all it is not really as awful as all that—but because being sent to prison and suffering loss of liberty, not being able to do what

one wants to do when one wants to do it, is a deterrent.

Chairman: You would put your money on that, as far as the deterrent goes. There is also, in some cases, the shame of conviction, as well as interference with liberty.

890. *Lady Wootton*: This is, to some extent, a hangover from the days when it was a very great indignity. I am wondering whether we are making too much of this. It is true that this is a holiday that comes at a time when you do not choose, but it does become a period when you are relieved of all responsibilities, and if it is as described in this description of the Swedish one in paragraph 5, it does sound attractive.—No, Lady Wootton, I would not agree it is attractive. The effects are so manifold. For instance, quite a lot of prisoners are married or have a girl friend, or other friends whom they cannot see. And there are other factors.

I remember the case of a man who had got three years. When he came out he was discharged in the morning and arrived home at lunchtime. He was met at the door by his little boy who had come back from school, and this little boy turned round to his father and said, "What are you doing here? Get out: we don't want you here". This boy had been set upon and chivvied at school—"your father is a jail bird", and so on. The effect of imprisonment is not just on the prisoner, it has many facets.

891. I do want your answer on this. I think we are perhaps sheltering behind a rather slender defence: the little boy will not perhaps be set upon quite so much if imprisonment ceases to have the stigma that it has at present, which we may be destroying now.—We will destroy the stigma not because prison itself is less destructive but because we use it too often. I hope we will not use it a great deal.

892. *Chairman*: You have made your point there. You mean that the more we reserve prison for the really serious case where nothing else will be effective, the more the stigma will be preserved.—Yes.

893. In the smaller Swedish-type prison you envisage there might be such a prison for the professional criminals who need a fairly high degree of security and there

might be a small Swedish-type prison with maximum security outside, so to speak, but with a fairly liberal régime inside?—Yes.

894. Because we came across samples of that principle in America, where there was a watch tower outside but freedom to move around inside.—Yes, peripheral security.

895. I take it you would mean by that a wall and a fence.—There are different systems: I am not expert on this.

896. An institution within whose walls, people could move around fairly freely?—Yes, where there could be a relaxation. This is particularly important. I think, in the present situation where we have abolished the death penalty. We have to remember the protection of the public. We have to face the fact that some people will have to be kept in for a very long time indeed, in absolutely secure conditions.

897. *Mr. Iremonger*: I think this is a terribly important category and one of which we are going to hear more. I can see the point in treatment for people whom, you might say, were neurotic or in need of help to orientate themselves, but when you get the professional criminal is it not better to stop talking about treatment altogether?—We have.

898. In that case, what is the object, what is the régime that is envisaged? The essential with these people is that they should be put away for a long, long time, and you are going to get the life class—people who are going to be put away for as long as possible—and, leaving aside those who might incidentally want treatment, the great mass of this class consists of people who have made their choice as to their way of life. All you can honestly say to them is "you are here and you are staying here". What can you do with these people?

Chairman: Contain them.

Mr. Iremonger: These are the Napoleons really. You put them on St. Helena.

Chairman: But you contain them.—They are well-adjusted people, on the whole.

899. *Professor Radzinowicz*: Do you accept the principle of keeping them out

of circulation for a very long period, irrespective of the gravity of the offence?—This is, where I hope our graded release would come in, because we could then impose a very long sentence on such people. But, if we think they are changing their mind then one can do something with them.

900. *Professor Radzinowicz*: In practice, it may well mean it will be said there is a danger and it is safer to keep them. For purposes of social defence and protection, would the very long sentences apply not only to murderers but also to professional criminals and also to people who are just a nuisance? How far would you go?—Definitions are very difficult, and I would hesitate to embark on this without further thought. But I think that at least in America there are professional criminals who operate on a very large scale and who run vice and murder rackets and goodness knows what. They are highly anti-social people and do a tremendous amount of damage. I do not care if such people are locked away for 20 years, if that is the price one has to pay.

901. Would you apply this to those people who have been undergoing preventive detention in this country?—No, I think a considerable number of those who have been undergoing preventive detention are not professional criminals. They are habitual criminals but not professional ones.

902. *Chairman*: Would you say that many of them have not been guilty of serious offences against the community?

903. *Mr. Justice Edmund Davies*: Mr. Millard has just drawn my attention to the fact that this is your E Class.

904. *Chairman*: In E I think you have given your answer fairly completely. Arising out of that, I presume you envisage that for those people, even though released on the conditions you suggest there would be a element of compulsion, or there may be, in their being contained in those institutions?—Yes, I think you might have a probation order with a requirement for staying at a hostel. But I ought to add that these very minor offenders—nuisances rather than dangerous—are people whose activities ought to be tolerated to some extent. If some

broken-down old drunk does stay out of the hostel at night and pinches another few milk bottles from somebody, we ought not to make a big outcry about this. We must learn to tolerate minor offenders but be quite tough with the professionals.

905. *Lady Adrian*: But you would have power to recall the men into the hostels?—because a lot of them might not wish to go back.—I rather doubt the reality of that, really. So many of them are lonely and have not got a home. If you run different kinds of hostels reasonably well—along lines now being envisaged by Lady Reading—I think that many might learn to stay at one of these helpful places. If they do not want to stay in shelter A or hostel B and want to go to the one in Edinburgh, let them.

906. *Chairman*: But it would not be purely optional?—I think every now and then you may have to have a probation order and say, "go there, or else". Even if you do put them inside for three months, it is not too important. What I think is wrong and unnecessary is to lock them away for eight years.

907. *Chairman*: Are there any other questions on that section? Then perhaps we might proceed to the next section on length of sentences, and consider the specific recommendation in paragraph 11.

908. *Lady Wootton*: This is the despair of every magistrate. You have somebody who has committed, let us say, a not negligible theft, a moderate theft, and he is given a conditional discharge and he does it again. He has to be put on probation or he is fined, and he does it a third time. There comes a time when you have exhausted all the obvious alternatives to short-term imprisonment—and this happens very often. What do you want us to do?—Put him inside for three months.

909. Why is three months better than one month or two months?—We are basing our recommendations on the fact that half the prison population get sentences of three months or under. This creates administrative problems which far outweigh any advantages.

910. *Mr. Millard*: Would not the net result of this be that the man who now gets 28 days or six weeks would get three months?—We have envisaged this. We

have said we do not know how this would work out. For if we get to know more about the effect of sentences, and the useful effect of fining is more firmly established than now, it may be that fining is a good alternative for a short sentence—even for recidivists.

911. *Lady Adrian*: But supposing they do not pay the fines—then what do you do?

—*Dr. Andry*: Referring to the paragraph here, we have put at the bottom "With a few specified exceptions, such as failure to pay fines".

912. *Lady Wootton*: That means you put them inside if they do not pay fines?—Correct.

913. *Mr. Justice Edmund Davies*: For three months or less?—*Mr. Klare*: Not less.

914. *Lady Wootton*: We have to bear in mind in this type of case where the offences are not very serious, on present standards a magistrate is most reluctant to put them away for three months. You think it rates 28 days—but you say that he should be put inside for three months, if you have tried everything else.—If you have really tried everything else it is a question of choice of evils really.

915. But we have to explain this to him.—Yes, but he could pay his fine and not do it again.

916. *Professor Radzinowicz*: Does it mean that really you would regard it as a major reform of the penal system to empty it to the extent of about 40 per cent or so, if one could do it?—Yes.

917. Do you feel the way to do it is to keep out the short-term prisoner?—No, we said we were very uncertain about the effect of this. I do not believe either a parole system or a system of graded release or the abolition of short sentences would necessarily have a great impact on diminishing the daily average prison population. This is quite hard to do, but one of the things it might do is to keep your minor habitual offender away.

918. Yes, I understand this. You would like to do it not only by one measure but by all these combinations of measures?—Yes.

919. And would you then regard the three months as an alternative of very short-term sentences?—Yes, absolutely.

920. *Lady Wootton*: The despair of every humane court is what to do where there is nothing else—when we have exhausted the humane methods. You have recommended a suspended sentence. Is there anything else that you can invent that we could do? The fine is something we can do already, but this is the despair of every court.—*Mr. Klare*: We have not put it in, because we have doubts about it: but there are experiments such as weekend prisons, etc., but apart from other things they create staff difficulties.

Then there are people who, as it were, could be dealt with either by the penal system or by the health service or possibly both. The penal system is trying hard to cope with these people but the health service, it seems to me, is not trying so hard. We need more centres for alcoholics and for drug addicts—of whom we may get many more in future. There are supposed to be adolescent units and units for psychopaths, but I do not know when they will be installed.

921. *Chairman*: Do you see any need for an attendance centre for adults? Do you think this could help much, among the alternatives to custody?—*Dr. Andry*: In my study of the short-term prisoners, I favoured this. I thought if one linked this with some form of supervision and custody order then a sort of detention centre might be useful as a halfway house measure and an offender may progress from there to full freedom or "regress" to prison depending on his behaviour at the centre.

922. *Chairman*: I understand the present attendance centres which have been started, though only embryonic in some cases, do not amount to much more than six or twelve afternoons *in toto*—spread over a period, each attendance being one-and-a-half hours to two hours.—I prefer to call it a rehabilitation centre, rather than an attendance centre to stress the need for rehabilitation programmes to be carried out there rather than merely ask offenders to "attend".

923. Would you envisage it as being extended to something beyond that as regards the number of attendances or period of attendance?—Yes, provided

that what went on inside is usefully planned rather than just something that happened capriciously.

924. That is what I meant.—Vocational guidance, for instance, and vocational placement should be connected with such an attendance centre, where actual attempts could be made to find people jobs and to get them help with the labour exchanges, with re-educational programmes, etc.

925. *Lady Adrian*: Does the probation centre not do it? It does not seem to me to need an attendance centre.—*Mr. Klare*: We did not put this in because we thought there was not a lot in it.

926. *Chairman*: I see. The next thing I would like to ask comes into the next paragraph really, paragraph 12—that is the system of day-fines as practised in Sweden, related to income. Would you care to expand on that? You say here that perhaps this is a fruitful field for research.—Yes, the fine is purely a deterrent: it cannot be anything else. There is no rehabilitation element in a fine, and therefore its effectiveness is related to the weight of the fine, to the impact which it has on the individual. I like the idea of relating the fine to income. After all we have quite a lot of offences which have rather small fines attached to them, and a £10 fine to someone who earns a lot of money might be rather little. If you could relate that to income as well as to the offence itself, that might increase the deterrent effect.

927. Does it strike you that it would be a very difficult thing to do, or not?—Not necessarily.

928. But do you think it would be difficult to arrive at the fair figure for a particular individual?—Well, the Swedes do it.

929. *Lady Wootton*: How thorough is their investigation?—I do not know.

930. *Mr. Millard*: May I put this to you: there is a concept that the fine ought to be linked to the gravity of the offence on the one hand and to the means of the individual on the other. The sentence might be to pay so many day-fines—or shall we call them units—the number of which is related to the gravity of the offence, and the size of the unit is related

to the means. The advantage of this, if advantage it has, is that it consciously makes the court decide in its mind the question of gravity and the means to pay. —This might be used in motoring offences, for instance.

Lady Adrian: I think it might be very difficult to decide, because not everyone earns a salary—the farmer or the professional man, or the wife.

Lady Wootton: There are income tax returns, of course!

931. *Mr. Iremonger:* Mr. Klare said the fine was purely a deterrent and there was nothing of a rehabilitation element in it. Does he think there should be any element of rehabilitation in the penal system? I am not at all sure one ought to entirely overlook the necessity, if not the virtue, of the concept of the expression of public disapproval. One of the difficulties one comes up against in discussing the penal system with members of the public at large is that what they really do want—though none of them say so frankly, and it is not commonly recognised is that people they disapprove of should be seen to get the rough end of the stick. There is a virtue in fines which is not always satisfied unless these fines are in some way related to the means or the purse, in that it does give the public at large the satisfaction of knowing that the wrongdoer has not triumphed. Would Mr. Klare feel this is an element of merit in the day-fines concept, that it enables fines really to be punitive, which is a virtue from the point of view of the public, whereas if fines are simply limited by statute and it is published that such and such an offence, committed by such and such a person, was visited with such and such a fine, it may seem very little?—Yes.

932. *Chairman:* I am not sure you have referred to the subject of restitution specifically?—No, not specifically. We have views on this. I think that restitution is really only meaningful if the offender means it: then it is very meaningful. May I put it this way. The medical superintendent of Broadmoor sees many people who have killed those they have loved. But they are insane, they do not recognise this emotionally, even if they recognise it intellectually. When they do realise what

it is they have done, they suffer greatly because they know that they have done a terrible injury. What they are then concerned with is finding some way of undoing the injury they have done. When the offender has come round to feeling that he has really done a grave injury and he wants to undo it, then I think restitution very important. But I feel that restitution artificially imposed—because we like the idea—is simply another punishment which, to the offender, is quite meaningless.

933. *Mr. Millard:* Does that necessarily make it a worthless additional remedy? —It is simply another punishment.

934. *Chairman:* Of course, from the victim's point of view, it would seem to be very fair to have an obligation to make restitution put on the offender. —Looked at from the victim's point of view, it would. But if we are thinking of the reality of the concept, then the term "restitution" is wrong. If we called this "compulsory compensation", that is all right: you are not then pretending it is something that it is not.

935. I see. "Compulsory compensation" would be more meaningful?—*Dr. Andry:* When we were discussing it one of the reasons why we have not put it in was because we were in some difficulty ourselves about this. Prisoners say that there comes a stage very often where they themselves feel the need for this. Despite what we have been saying just now, one still feels if they do, there is a need to divert part of the fine to compensating the particular victim, if one can.

936. I would like, if I may, to put a case that has been put to us—that ancient law used to provide very often for restitution to the victim. But with the passage of time with most offenders being quite unable to make restitution, it was dropped out of English law very largely. It has been suggested to us that in a relatively affluent society it would be advisable to put back the principle of restitution into the position it once occupied as the first charge on the offender.—*Mr. Klare:* There are two sides to this. One is the side that concerns society and the victim—and I can see the usefulness here. If one had a system whereby the victim could be compensated by the offender, it would be desirable. But

when one is talking about the inner reality so far as the prisoner is concerned, I agree with Dr. Andry. There are offenders who move through a stage when they do feel sorry, and one needs a flexible way for allowing them to express their need to make good a wrong, just as a small child wants to make good. Unfortunately that may be difficult.—*Dr. Andry*: When we did discuss this we covered the question of the possibility of enforcing "restitute fines" via "attachment of wages".

937. *Mr. Millard*: For the payment of fines or the payment of restitution?—The payment of restitution.

938. *Lady Adrian*: If you attach it compulsorily in that way would that inhibit the restitution made voluntarily.—It would not be voluntary restitution—something over and above that.

939. An offender's voluntary payment would seldom compensate for all the damage of his offence.—*Mr. Clare*: I do not know that this would necessarily be inhibiting. The only thing I am worried about is the wholesale imposition of imprisonment *plus* restitution; and our pretending that this means something to the offender which it may not do at all.

940. *Chairman*: I think you have made your point of view clear on that. Paragraph 13: Does what you say there imply a certain sympathy on your part with suspended sentences? Are you saying that if it is feasible, there might be something for having suspended sentences?—Yes.

941. *Mr. Millard*: May one ask what the League put forward as the advantages of the suspended sentence over probation on the basis that you are called back and dealt with if you commit another offence?—Not an advantage over probation—there are not enough probation officers. It is an alternative method. There are these different ways of suspending sentence. We are aware of the difficulties. You could suspend the pronouncing of the sentence or pronounce the sentence and suspend carrying it out.

942. *Chairman*: Deferred sentence?—Deferred sentence. Although difficulties exist, we think that this is another possibility. It is Lady Wootton's point

about being armed with a greater range of sentences and treatments.

943. *Professor Radzinowicz*: It means you are in favour of suspended sentence?—We are in favour of looking at it again, yes.

944. Would you be in favour of suspended sentence without saying the kind of punishment which would be imposed when the offender comes back?—Yes.

945. Or would you rather determine the punishment when he comes back having committed an offence?—Of the two I think the former is more flexible and therefore to be preferred.

946. Would you contain it over a period or make it that whenever you commit an offence you come back?—I think only over a period.

947. What kind of period do you have in mind, broadly speaking?—A year, perhaps.

948. *Mr. Millard*: May one finally ask would you envisage this suspended sentence—I say this having regard to the various criticisms made—would you envisage an irrevocable decision such as undergoing a sentence of six months if you commit another offence within a year, or would you allow conditions to be attached which would permit extenuating circumstances to be taken into account?—We are in favour of not pronouncing sentence.

949. *Professor Radzinowicz*: That was the answer I received, my Lord Chairman.—What we had in mind here was saying, "We suspended sentence for a year, and the nature of this sentence will not be pronounced if you do not re-appear before us for a year".

950. *Mr. Millard*: How does that differ from conditional discharge?—Not very much.

951. *Lady Wootton*: You do not say that we sentence you to three months, but this may be a matter for consideration. . . .—You could.

952. That would make it different—otherwise it really is conditional discharge.—Yes.

953. Which do you want?—I would like another sentencing method making it a little bit different.

954. With the period pronounced at the time of the first offence and a loophole for mitigating circumstances?—I think that might be the way.

955. *Professor Radzinowicz*: Would you make a provision that recidivists who had been convicted previously should not come under the operation of this sentence and that it should only be applied to first offenders? Or would you not restrict it in any way?—We only suggest a re-examination of the possibilities of suspended sentence. We have not gone further than this.

956. *Chairman*: Thank you, that is quite clear. You must not let us press you beyond the evidence you want to give. Paragraph 14 is a subject on which, I think, we would probably like to ask you a question—the treatment of the chronic alcoholic. You say he should not be sent to prison and then you say that he should be treated under the National Health Service. I do not know if my colleagues have any questions about alcoholics—or have you anything you wish to add?

957. *Lady Adrian*: May I ask whether you are envisaging compulsory powers or not, even within the Health Service?—This is a difficult question to answer. I do not know enough about alcoholism to be able to answer this, I do not know the types of alcoholics who most need compulsion. —*Dr. Andry*: It is thought that, among drug addicts and alcoholics, some do need compulsion, on the assumption that some suffer from some form of diminished responsibility.

958. This is what I felt was probably the thinking of the experts. Is the compulsion to be applied because the person simply is an alcoholic or a drug addict, or would you wait until he has broken some other branch of the criminal law and then deal with the alcoholism? If he likes to do these things in his own bedroom would you interfere with him?—As a League, we have not considered this. My own inclination is not to interfere with people if they do things in private. But if an alcoholic comes back from the pub at 11 o'clock at night and makes a nuisance of himself, then I would have thought there is a case for interfering (as opposed to the chap

who quietly drinks in his own bedroom).

959. But he may become entirely dependent for support on the State—certainly the drug addict can. He deteriorates, he becomes a vegetable.—It is similar to the question of whether you should give somebody compulsory blood transfusions to save life, and since it is thought there is diminished responsibility of thought among alcoholics and some types of drug addicts, you would interfere in order to save their lives.

960. Under the Health Act it justifies compulsory powers when the patient assuming a certain degree of illness, is no longer able to decide for himself.—*Mr. Klare*: That is right.

961. *Professor Radzinowicz*: I would like to have clarification on the subject of alcoholics. There are two categories here. We have those people who take a lot of alcohol and commit some kind of offence from time to time—breaches of public order, a row, nuisance value—this is one category. Another category would be offenders who commit criminal offences and, when you look into their records, you suddenly see that alcohol played a very important role in their life. I do not say it is the cause of criminal behaviour, but a very important factor in their life. How would you deal, in broad terms, with the first category and the second, or does your proposal here apply to both.—I do not think it can apply to both. I think the people who commit major crimes in which alcohol was a factor should reasonably be coped with in prisons. But one hopes there will be facilities for dealing with the alcoholism side of their difficulties in prison.

962. *Lady Adrian*: That would apply to the drug taker too, because he must have the money?—Yes.

963. *Mr. Millard*: Do you suggest there should be any treatment within the penal system—I go back to something said earlier on—for alcoholism which is not allied to some sort of an offence? It is not an offence in this country to be an alcoholic—as in America it is an offence to be a drug addict. You do not suggest, I gather, that there should be a new offence of alcoholism by itself.—No, I do not.

Mr. Millard: Only when it is allied to drunk and disorderly behaviour or ordinary crime of some kind or other.

964. *Chairman:* I think that has rounded off the discussion on that. We have already asked you questions arising on paragraphs 15 to 19—I will ask my colleagues if they have any further questions they would like to ask you on the substance of those paragraphs. If not, then I think that carries us to the selection and training of staff.

965. *Professor Radzinowicz:* May I ask one question on paragraphs 15 to 19? This question of release. This is obviously dependent in practice on the system of after-care that we have. Is it not true to say that, as it stands now in a great number of cases, release will not be granted simply because it will be said there is not enough after-care. If an offender goes back to society he will commit an offence and therefore it is safer to keep him. How do you connect this whole procedure with after-care? Is it not true to say it is almost a duty to have after-care, and this conditional release is a paper fiction?—I think that is right. The kind of thing we had envisaged is that the prison service itself should play some part in after-care. We felt it would be a useful social mechanism which would get the prison officers themselves out. It presupposes regionalisation so that people return to somewhere which is not too far away from the prison.—*Dr. Andry:* It affects the whole question of the need for generic training—training if similar for prison officers, probation officers and after-care officers would make it relatively easy for each of these officers to be interchangeable and hence for some officers who have worked outside to work inside prison and vice versa.

966. *Chairman:* In paragraph 19 the release board referred to there is spelt with a small "b" and is in fact, as you made clear, not an independent board.—No.

967. *Mrs. Serota:* May I ask a general question? Paragraphs 20, 21 and 22 there relate primarily to training, although the heading includes selection. A little later on there is reference to bringing people with social sciences into the penal system. I wonder if the witnesses could expand a

little further on whether they are satisfied in the present scarcity situation with the kind of people who apply to the prison service and, in an ideal world, what kind of people they really wish to attract to this service?—*Mr. Klare:* I am very glad you have asked this question. I do not really think that the suggestion by Margaret Turner, of the Prison Reform Council, who would like to see the prison service swamped with social workers is a practical one. I think it is possible to do much with quite ordinary people in the prison service, provided that you eliminate unsuitable people—those who are too rigid, or sadistic, for example. I think you must really select them for an important job of this kind through personality tests to get some idea of what they are like. But officers do not have to be specialists. They can still be trained in understanding relationships, as important as the training itself, is the sort of relational network in which they find themselves. If they find that, after training, they are sat upon by their colleagues and subjected to all kinds of pressures, they will certainly reproduce these pressures on prisoners. What we really need is greater democratisation in the hierarchial and somewhat autocratic set-up which we have in our prisons. This is the most important thing of all.

968. I do not want to put words into Mr. Klare's mouth, but is he really saying the present prison régime is restricting the kind of person coming into it?—I do not think it is restricting the kind of person coming into it, but it is restricting their potential. They could operate differently. If we are going to have some prisons where there will be lots of group counselling and other prisons, good Swedish-type prisons—with workshops, there ought to be possibilities for creating both kinds of staff. You ought to have separate promotion and career possibilities in either type. There will be some people who like counselling who will be good at it and enjoy it. There will be others who will be afraid of group work and be much happier in a more traditional, Swedish type of institution and who will be good at that. What is wrong at the moment is that you take a man who starts in one situation and is quite happy with it. He

gets his promotion and you move him into a different type of institution and he is doing something which, maybe, he does not like. How many experiments have failed because governors who have been very good in one sort of institution have suddenly found themselves transferred? The question of personnel policy is vital here.

969. *Mr. Millard*: Paragraph 20 contains implied criticisms of the present arrangements really. I do not know what he thinks of what goes on at Wakefield Staff Preliminary Training School and the Staff College. I would have thought on the college side with the Assistant Governor it does go, in form if not in substance, a long way towards the in-service training that he talks about.—There is not enough training. The initial training course, even for the AG2s, could be improved. I do not want to suggest it has not been improved all the way along the line. It has; but it could be taken further. Why do you think six months' training at Wakefield is all that is required, when you ask of a social worker to train for a lot longer than this? He deals with prisoners who are outside and under very much less pressure; and deals with people who may be less difficult than those in an institution. Those who work in institutions ought to know something about inter-personal relationships and also about the social dynamics of an institution. This has been studied a little but ought to be studied much more. The pressure points ought to be watched out for and met by skilled response on the part of the staff. And as for the training of prison officers, there is too much emphasis on marching about and drilling. Officers have to deal with difficult, damaged human beings; there should be more time on giving them basic skills on that side. I know that there are security questions, and they have to know how to contain people. But I think to treat them as if they were primarily members of a para-military force is basically a mistake.

970. *Mr. Millard*: Would you suggest—and I was neither defending nor criticising the present system—would you suggest the principle of a central, or several, regional staff colleges and training schools was to

be preferred to training in the individual prisons?—I think both need to go on. It is important that whatever gains are made in courses are not subsequently lost. A prison officer may go on a refresher course. He feels "All right I will try something new". He goes back to his prison, finds himself among other officers who do not believe in new methods and the good effect of training wears off. This is why in-service training is so important in the institutions.

971. *Chairman*: Do I take it you would welcome the integration of the prison officers into the treatment side as far as personal capacity and interest permit?—Yes. I think that the American model where you have treatment staff and custodial staff separate is dangerous. It sets up even more tensions than already exist in an ordinary institution. You get jealousy between the custodial staff, who feel they have a very negative role to play, and the treatment staff. You notice some jealousies even in Sweden, between custodial and the trade institutions.

972. *Mr. Millard*: In California they are, in fact, trying this very theme of combining correction and treatment with people whom they call "correction and programme supervisors".—May I make one other point on this. Delinquents are people who tend to see all authority as bad and all permissiveness as good. It is, therefore, important that we should combine authority and permissiveness, treatment attitudes and authority, in one and the same person, so that authority can be perceived as good.

Lady Adrian: That is a very important point.

973. *Lady Wootton*: One other point about the staff. Prison governors sometimes have told me that the prison governor really has no control over the selection of his staff. He can, if he makes a fuss, say he does not want so and so, whereas the head of a teaching institution or business will reckon to choose his own staff. The prison governor is given those whom the Prison Department think he should get. If that is still true—have you any comment?—It is still true.

974. *Professor Radzinowicz*: Are you—by you I mean you or your colleagues or

lecturers who collaborate with you often—invited by the Prison Department to take part in conferences with the prison staff, or discussion when they meet at annual conference?—Sometimes we are invited to talk at an annual conference.

975. *Professor Radziewicz*: Yes, thank you very much.—*Dr. Andry*: If I might add one point. With any of these types of training, I think it is an important fact that people from other professions should interest themselves in inter-disciplinary contacts—because such inter-disciplinary contacts are likely to have a liberating influence—in reverse this can especially be seen in industry nowadays where this is being tried and where the problems are not dissimilar. A great deal might be learnt by feeding in people from outside one's own profession into this sort of staff training course.

976. *Lady Adrian*: Sympathy between the good and the bad, authority and permissiveness—I am quite sure these are most important. The same sort of difficulty arose in the Mental Health Service where they chose permissive social workers—some of them would not take the humblest duty of duly authorised officers, and having the power and authority to compel. It seems to me life is such that you have to have both and combine both in one person, and admit the good and the bad in both.—*Mr. Klare*: I think we cannot afford to be all good.

977. *Chairman*: In paragraph 24 you criticise the tendency to reward good behaviour. Would you think that some element of rewarded good behaviour might be a necessary element in preserving discipline as against a punishment? A positive reward rather than a punishment?—I suspect that the rewards and punishments are inappropriate in our prison system. I think they are artificial. The real rewards and the real punishments in terms of the real social system of the prison may well be different. One of the things they do at the Van der Hoeven Clinic is that they have a committee of prisoners, and this committee decides on rewards and punishment, including payment. Earnings are a reward in ordinary life—they are in prison life, too. How you work is meaningful to people who have

difficulties with work. At the Clinic, people work in groups in such a way that they are inter-dependent upon each other. They have to work as a team; learning to rely on the other person, and so on. The committee of prisoners awards points not only for the amount and the quality of the work done but also deducting points for things like disruptiveness—whether or not someone else was hampered by a neighbour at work.

978. They then fine them, do they?—They give them less money. It is all discussed. And the discussion itself is a way of learning.

979. What you are saying is you are not objecting to reward and punishment, but you think the present system may be wrong?—Yes.

980. *Mr. Iremonger*: While we are on this rewards and punishment, what would Mr. Klare feel was the way to deal with the ultimate impossible disciplinary problem—admitting that discipline is more a matter of leadership than coercion—assuming you have in a prison—which is not a place for people who are mentally disturbed in any way—an inmate who makes life impossible, who cannot be dealt with. What are you going to do with him in the end? Should there be a bridge and touch stage? Should it be crossed by the special hospitals and prison?—I feel that if you open up communications by group methods, it ought to be possible to express quite a lot of disruptiveness by speech rather than by acts. But for others who cannot control themselves, or express themselves verbally, drugs may be helpful.

981. *Lady Adrian*: Do you think there is too much pressure by the peer groups?—I do not think so. If groups are taken by people who have training, you can prevent scapegoating. A skilled group conductor can do this.—*Dr. Andry*: The models now exist in the community for training such people.

982. *Mr. Iremonger*: Just consider that. What I see as the ultimate danger in all this is that you get something which, under the guise of being group counselling or whatever you like to call it, becomes a peculiarly subtle kind of communal cruelty.—*Mr. Klare*: I do not think this

occurs. The tendency in groups is that people learn not to be afraid to reveal themselves. And they are tolerated. They have got foibles, difficulties, disagreeable characteristics, and they can work upon them gradually in a group. This is tolerated; I do not think groups are cruel. They work constructively or supportively rather than destructively.—*Dr. Andry*: One might almost argue it is fairer for things to come out openly in groups rather than to encourage individual treatment (depending on the case) which may be regarded as secretive because only two people, the treater and the treated are involved. Hence group-treatment is far removed in this sense from being "group-cruelty".

983. I am a little frightened by the assumption that this is always going to go right. This is a new thing and one thinks it is a good thing. Supposing it is not always going to go right—I personally would rather be the victim of the most depressive disciplinary régime than be the victim of a regional permissive group counselling régime. When I said I did not like it I was told I should co-operate.—I do not really think we ought to envisage a system where people are compelled to join groups, I do not think this would be right.

984. *Lady Adrian*: Speaking of your wage punishments and awards, they have to take part in that if they work in a factory, if their wages are to be determined by a peer group.—They have to defend themselves and argue about it. They have to be helped to do this properly. At first, inmates tended to be a bit too punitive. That had to be dealt with; but it has been dealt with.

985. *Mrs. Serota*: Would Mr. Klare agree that group treatment, as in any other kind of treatment, in the last resort depends on the skill of the staff involved.—Yes, I would agree, but I think quite ordinary people can acquire this skill. Only they have to be trained in group methods. I do not think the present training is enough. The only way you can learn how to take a group is to be a member of it yourself. You do not know how the groups operate otherwise, but this takes some time.

986. *Chairman*: We must not be too exacting in the time we ask from you, but in paragraph 27 there are six suggestions—

recommendations—you have put forward. I do not know if there is anything you wish to add to any of those six?—I do not really think so.

987. *Professor Radzinowicz*: May I ask a question on these six. Do you think that if money had been available there would have been resistance on the part of our authorities to introduce those changes?—There might have been resistance. I do not think that the present management techniques are appropriate to the situation. This is something perhaps to do with the role of the Civil Service itself. It is unusual for the Civil Service to have to manage a directly administrated service which has as its end product, difficult human beings. This is a very difficult job of management for which civil servants are not trained. They are trained to advise their Ministers, trained to do all kinds of skilled and competent jobs, but they are not necessarily very good at direct management. It does not always follow from this that the people who rise through the prison service themselves are always good. There is a lot to be said for giving special management training for people who take management jobs at different levels. There is also something to be said for a study of the structure of the prison service, including its management structure.—*Dr. Andry*: "Inter-disciplinary wise" this relates to all high echelon management problems be it hospital administrators—or prison governors or the administrators of school services or in any other similar jobs where there are mutual inter-action problems to be studied which occur between the systems of institutions and people who have to run them. Thus administrators from different walks of life can learn from each other about basic techniques.

989. *Mrs. Serota*: Here the prison service is rather special. What you are suggesting is that you want to see certain changes made on the lines of paragraph 27, but you are not questioning the fundamental organisational prison service as a whole in the sense that it is at present run by a Department of State. You are not suggesting a Board of Commissioners. You are not suggesting it should form part, for example, of a different Department of State?—No, that is not the point. The

point is that the structure of the prison service still needs looking at. We have tried to express this in paragraph 26—ways in which the system might learn to adapt successfully to new methods. I think it would pay the Prison Department if they got hold of a first-rate management consultant. If it pays I.C.I. to do it—it may pay the Prison Department. It may mean a radical break with traditional thinking or ways of doing things inside the service.

990. *Professor Radzinowicz*: What you really mean is that you have to put forward a set of proposals; but fundamentally they are not isolated proposals. Fundamentally there is a more basic attitude behind it which has to be altered!—There is a more basic attitude. Our proposals would initiate some of the changes; they would produce a certain amount of information. This information would be fed back into management. The management is still geared to a system which is mainly concerned with containment and not with other things, and this will have to be gradually changed. It is not easy. I do not imply criticisms of individuals in the service or at management level; it is the structure that needs examination.

991. *Chairman*: I think I see what you are suggesting. It is a case really for an exercise of operational research?—Yes.

992. Into how an organisation like this should be organised, run and managed?—Yes.

993. *Mrs. Serota*: But you are not prepared to say anything about the actual administration of the service, and where it should lie in relation to other services?—You mean should there be a separate Prison Department apart from the Home Office?

994. Yes.—I do not know the answer to this.

995. *Chairman*: We saw the Prison Department in America. It is rather separate there.—This may be so. I would not really know the answer for this country. It does seem that there is something desirable in having links with other services connected with the offenders and even with services concerned with non-offenders. The basic question here is, ought the Home Office to be what it is? Ought the Home Office to be concerned

with aliens and civil defence and the fire service, etc. as well as with the social questions.

996. *Mrs. Serota*: And Northern Ireland. —... should there be a separate Department which is concerned with the treatment of offenders and other personal social services.—But that is a different question.

997. *Mr. Iremonger*: Could I then ask if Mr. Klare could clear our minds by answering this question? Supposing the Royal Commission were to be entirely seized of his thought and mind, and were to make the recommendation that he would make about this whole question of changing the attitude, philosophy, and organisation of the prison administration, and then supposing he had to take in the broadest terms the political decision as to what to do in accepting the Royal Commission's report as the Home Secretary or the Prime Minister, or whoever it might be. What would he do? Whom would he appoint with what terms of reference, and where would he look for such a person. Something has got to be done. It is rather difficult to see what you actually do. What lever do you pull?—I do not know the answer to this question. I have tried to suggest that the structure needs examination, not how.

998. We would have to suggest an answer. It would not be enough to say everything you have said here. We should have to say we therefore recommend that such and such a thing should be done. We might be quite wrong in it, but at least it would be helpful if one could envisage it in practical action to be taken.—Is it out of the question for the Royal Commission to say to the Prison Department, "Get a management consultant in to have a look at organisation, structure and management roles, and let us have a report within six months"—what would happen if you did that?—I do not see what is so frightful about this proposal, it could perhaps sort out things of which no one has more than partial information.

999. *Professor Radzinowicz*: You mean it is a closed system—a self-contained system?—It is not just a closed system; it is a system designed to do certain things but not others.

1000. *Mr. Iremonger*: May I take it a little bit further? I see that we could not ask at this moment for the answer to the question—that is something we would have to ask someone to suggest to us. *Mr. Klare* says you call in a management consultant, and, by that, one means somebody who has experience in handling different human situations and seeing that the result is not chaos. I.C.I. did it. How do you get people to work together in the most economical and efficient way? Management consultants are people concerned with more or less normal human beings doing more or less normal things in a more or less normal community. Are there, in fact, management consultants who can look at a close service like the prison service trying to produce results which no other human organisation is trying to produce? Is there such an animal? Can you advise us on this?—*Dr. Andry*: With respect I can think of at least three such organisations.

1001. *Professor Radzinowicz*: Could you mention them?—The Tavistock Institute, I think has developed a great deal of know-how and skill in this. Professor Alec Rodgers who heads the Department of Industrial Psychology, Birkbeck College, and one or two private organisations that perhaps ought to be explored further before one mentions them by name. But at a later stage I could submit two or three names of some private organisations that have started to build up a great deal of know-how.

1002. *Mr. Millard*: In this kind of field?

1003. *Mr. Iremonger*: It seems to me that you and *Mr. Klare* have said things I would be very unhappy to ignore, and yet I would feel a little lost in trying to pursue them further.—*Mr. Klare*: I do not think the problem is as difficult as all that. What we are concerned with is systems and structures and communication networks. I do not think that communications work effectively in the prison service. The prison service is designed to cope adequately with communications downwards. It is far less adequately equipped to deal with communications upwards, and that is very necessary because it is the only feed-back you get. It is not well

designed to deal with horizontal communications, which are again very important.

1004. *Lady Adrian*: Is it possible you could learn something from the premental hospitals?—I think so. These organisations are basically the same, and there are certain laws, as it were, that apply to organisations. Even industry could teach us something.

1005. The nearest would be a mental hospital?—Except that they are more self-contained.

Lady Adrian: Possibly that is an advantage.

1006. *Mr. Millard*: *Mr. Klare* would probably agree that if you brought in a firm of management consultants, the important matter would be to limit their terms of reference. The trouble in this sort of affair—I think he would agree—is that you can end up with policy recommendations from people who really do not know the fundamentals of the policy—if you are not careful. I have had experience.—You must determine your consultants with great care. Secondly, their report ought to be made only to the Department itself and to the members of the Royal Commission, and not to the general public. Clearly you cannot expose a government department to possibly damaging criticism which might be made by a management consultant. But after all this sort of thing it has been done. The War Office have used management consultants. Other government departments are beginning to do this. I think it could be done here provided your terms of reference are carefully set out.

1007. *Chairman*: Thank you very much indeed.—*Dr. Andry*: I think Professor Radzinowicz has a very valid point here in drawing our attention to the difference between closed systems and open systems, and the Management Consultants' skills would have to be directed, at the moment, to the closed nature of the system, but again firms of certain kinds are not unaware of dealing with problems of this kind.

Chairman: Is there any other question? If not, may we thank you both once again

for the time you have given to us, and our chance to talk to you and ask you these further questions. It has been extremely valuable because we can superimpose on some written evidence which, as I mentioned at our last meeting, we were most

grateful for itself. May I again congratulate you once more on the comprehensiveness of your report. Thank you very much indeed.

(The witnesses withdrew)

MINUTES OF EVIDENCE
TAKEN BEFORE THE
Royal Commission on the Penal System

Witness: Professor Manuel Lopez-Rey
(formerly United Nations Adviser on the Prevention of Crime and the
Treatment of Offenders)

Tuesday, 1st February 1966

Present:

The Rt. Hon. VISCOUNT AMORY, G.C.M.G., T.D. (*Chairman*)

The LADY ADRIAN, D.B.E.

The Hon. MR. JUSTICE EDMUND DAVIES

The Rt. Rev. THE BISHOP OF EXETER

Dr. T. C. N. GIBBENS, M.B.E.

Mr. T. L. IREMONGER, M.P.

Mr. R. E. MILLARD

Professor J. N. MORRIS

The Hon. SYLVIA FLETCHER-MOULTON,
C.B.E.

Professor L. RADZINOWICZ

Mrs. ELIOT WARBURTON, O.B.E.

The Rt. Hon. LORD WHEATLEY

The BARONESS WOOTTON OF ABINGER

Mr. A. ALEXANDER, O.B.E. (*N. Ireland
Observer*)

Mr. A. J. E. BRENNAN (*Secretary*)

Mr. D. F. INGBY (*Assistant Secretary*)

Note: The Royal Commission had before it Professor Lopez-Rey's article "Administrative Penology" (*Brit. Journal of Criminology*, January 1965).

EXAMINATION OF WITNESS

1008. *Chairman:* Dr. Lopez-Rey, may I start with telling you how very much we appreciate your willingness to come along and allow us to ask you some questions. We are certain, in view of your very wide experience and profound knowledge in this field, that your advice to us will be of the greatest possible value. May we thank you very much indeed for coming along and giving us this opportunity. We should like, if it is agreeable to you, to have a transcript taken of our questions and your answers and include that in the published evidence, but we would like to ask you whether that course would be acceptable to you. We would, of course, submit the transcript to you for your approval before it is adopted.—My Lord Chairman, ladies and gentlemen, members of the Commission, I wish first to express my thanks for having been invited to appear before all of you, and I shall try to the

best of my ability to answer your questions. I understand from the letter I received from the Secretary, Mr. Brennan, that the questions will deal with penitentiary matters.

1009. Would it be acceptable to you that our questions and your answers should be included in the oral evidence given, and published?—There is no objection, if as you have pointed out I receive the draft in advance.

1010. Thank you very much indeed. May I say that we have all read with particular interest two articles that you have written, one in the *British Journal of Criminology* and the other in *Studies of Penology*. It may be that many of the questions I would like to ask you will be in the field covered by your 10 points in your article in the *British Journal of Criminology*, because they sum up so

many of the points in which we are particularly interested in our investigation. Your articles contain, very naturally, some criticisms of existing practices, so it would be extremely helpful to us if, where you believe there are practices pursued elsewhere that are more successful than the current practices in this country, you would be kind enough to indicate where those things are being better done. We should particularly be interested in following up those cases and finding out more about them, and possibly make visits in due course.—Yes, my Lord Chairman. We have here the 10 questions referred to. Shall I take, for example, the question of short-term imprisonment, and may I relate this to the paper on the adult offender?

1011. That is the Government's White Paper?—Yes, the White Paper. It seems to me that the problem nowadays in most countries, not only here in the United Kingdom, is to reduce as much as possible the number of people sent to prison, not only on a short-term basis but also on a relatively long-term basis, for example, up to one or two years' imprisonment. I have read this Paper and, although I fully recognise its merits, I should say that still it seems to me too much on the traditional side, if compared with what is done among other countries, for example, in Yugoslavia and Turkey, so as to combine freedom and imprisonment. I would refer in this respect to the different procedures that upon my proposal have been introduced last year in Turkey. One of them is the postponement of imprisonment. A person sentenced, for example, to three, six or eight months' imprisonment, may, taking into account his social condition, profession, family problems, have the sentence of imprisonment deferred, that is, instead of being carried out immediately, it may be postponed up to three months and, in exceptional cases, longer. It happens that sometimes the offender is not as bad as he appears to be; he has certain family or health problems, or to attend to urgent business. In such cases the implementation of his sentence may be postponed. That is one thing that I think could be considered as a possible way of

mitigating the hardness of immediate implementation of imprisonment.

1012. Could you tell us there, Dr. Lopez-Rey, what happens to the offender during the time the sentence is postponed?—He is completely free.

1013. With no supervision of any kind?—No. In Turkey experience shows that people go to prison without being taken by the police. After one or three months—it depends upon what they need—they usually go to prison by themselves.

1014. *Professor Radzinowicz*: How much probation is there in Turkey?—Unfortunately there is no probation, because of lack of financial ways and means.

1015. Therefore this postponed sentence is a kind of alternative?—That is why I introduced it because generally it is extremely difficult to convince governments in poor countries that it is necessary to organise all of a sudden a probation service. They do not have the staff and particularly the money to organise it.

1016. *Lord Wheatley*: I would like to ask one or two questions in amplification. In view of what you say, does it mean that the person has his sentence deferred?—Yes, deferred.

1017. But at the expiry of the three months or six months he then serves the whole of the sentence, and it is merely for personal reasons that the implementation of the sentence is not carried out immediately?—It is simply deferred, in the sense that he is free and he can devote himself to his business, but no deduction is made of the time spent as a free person; he is supposed to go by himself to the prison authorities within the 30 or more days granted.

1018. Is this merely to allow him to get his personal affairs in order?—Mostly. I should say we had to take into account also the characteristics of the country concerned. Turkey is not like England or Germany or Bolivia. We had to consider the characteristics of the country and the availability of ways and means, etc. Turkey is mostly an agricultural country. It may happen that a person is sentenced and supposed to be sent to prison when the harvest is coming up. Harvesting is mostly a family affair. There are practically

no hired labourers. Harvesting has to be done by the family, and if you take away the son or the father you disturb the whole family, their economic life, so between one and three months may be granted to them.

1019. *Chairman:* Do you believe this system would have an application in this country?—It is difficult to answer this question as far as I am concerned, among other things because, although I think I know England, England is too complex to say yes or no. However, I venture to say it would be possible in certain parts of England, but perhaps not all over England. I do not see any difficulty, in principle, that an offender even living in London may have a sentence of less than three months deferred if he produces enough evidence to justify it.

1020. *Lord Wheatley:* To what extent do they have the other alternatives to imprisonment that we have in this country, apart from probation which Professor Radzinowicz mentioned? Do they have such things as suspended sentence, do they have binding over, or anything of that nature, apart from fines?—Yes, in most countries, even in the less developed countries, at least on paper, there is such a thing, as suspended sentence. It is not the Anglo-American system, but the European system of suspension. Usually it is used in a very timid way, particularly in the Near East and some of the Latin American countries.

1021. *Mr. Justice Edmund Davies:* They have the suspended sentence in Turkey in the true sense of the term, as one finds it in other countries, the suspended sentence which is to be enforced only if during the period of suspension the offender proves himself unworthy?—The suspended sentence in the continental system, and putting aside France and Belgium, which have reformed their respective laws on the matter, usually does not imply supervision during the period concerned. Generally the sentence is supposed not to go beyond six months, exceptionally longer as in Argentina and the person is simply left on his own. May I say that all in all the results are good, and one of the reasons is that I do not believe that every person put on probation needs to be supervised. I

think in this respect we are a bit obsessed with asking for supervision and assistance. I think quite a number of people could go ahead without supervision or even assistance. Provided they have a certain amount of skill or ability so as to do a job most of them will get on pretty well without supervision, particularly when we consider that in the less developed countries what is meant by supervision and assistance is no more than police supervision.

1022. *Chairman:* Would you envisage that if it were general for a person to receive a sentence and for the sentence then to be waived—not ever carried out, unless there was some reason to do so—any deterrent effects involved in the original sentence would be lost?—It depends on the meaning of the term "general". It is not that it is automatically applied to everyone. The provision has a general purpose but not a general implementation or application; it depends upon the individual circumstances of each case. On the question whether or not the deterrent effect is lost, may I say on the basis of my experience that the total implementation of short-term imprisonment has in general a more disintegrating than a deterrent effect. The deterrent effect in countries like the United Arab Republic, Uruguay, Thailand, and other countries I know is that people, mostly farmers or peasants, are really happy with the momentary deferment of the sentence. The worry of most of these people, is the immediate cut-off that the automatic and immediate implementation of the sentence implies. Three or more weeks or up to three months also gives time to the family to get used to the idea that after that period of time the father or son, or whoever it is, is going to be imprisoned. The immediate shock of taking him away is I think very much lessened.

1023. What I was referring to actually was not the deferment of the sentence but the suspension with the possibility of the sentence never being served custodially. —I think to some extent what I have said applies too. I know quite a number of people who are fully conscious that they have committed an offence, the offence is not a serious one, and the mere fact that

the suspended sentence may be implemented has in a curious way a deterrent effect. The meaning of deterrence lies mostly in the fact that a reproach has been made to a particular form of behaviour, and the man has realised and assessed the danger of being sent to prison.

I was thinking of enumerating, if my Lord Chairman allows me, other ways of reducing imprisonment. I have always tried to put at the disposal of poor countries methods which are not expensive. The second, which has been applied in certain States in the United States, and somewhat empirically in certain Latin American countries for many years, is to allow the person awaiting trial or sentenced up to six months, or even occasionally a little more, to go outside every day and work on his own and come back to prison at 7, 7.30 or 8 o'clock in the evening, and leave the prison the following day at 7, 7.30 or 8 o'clock. It depends on the local conditions. Several modalities are possible such as whether or not the salary, wages or whatever the remuneration is should be handed to the warden of the prison or kept by the accused or sentenced person. I prefer the latter, I think that as a rule we should be a little more flexible and give to the sentenced person a greater amount of responsibility so that he is completely free to handle the money in a normal way. One of the things I have suggested in Turkey is that he should contribute to a certain extent to food and lodging. The system is already paying dividends in several countries. I am afraid I do not see any reference to that in the White Paper.

1024. That is extremely interesting, we would like to ask you one or two questions on it if we may. The first that occurs to me is this. Could you tell us what precisely would be the purpose of the time spent in prison in those circumstances, that is to say, between 7 o'clock in the evening and 7 o'clock the next morning, and presumably during the weekend, too? What would be the purpose served by that?—The purpose is to bring home to the offender, the sentenced person, that there is still a certain limitation. Secondly, in certain places the evening is the most dangerous time for committing certain

offences. I think that in this way the sentenced person—we cannot call him fully a prisoner—realises that there is still a certain restriction, his freedom is restricted, and he is supposed to comply with certain limitations, such as to appear in the prison at 7, 7.30 or 8 o'clock, and so on. In Europe—in Germany it has been applied for quite a number of years—they have a modality that perhaps cannot be introduced in other countries; the prisoners are not always taken by prison officers, but sometimes by what they call friends of prisoners; they are voluntary people who go to the prison early in the morning and transport them. In a big city the problem is always of transport. In Turkey and other countries quite often the prisoner goes to work by himself.

1025. Would he normally be allowed opportunity for contact with his wife and home, because he would be normally at liberty during his working hours only?—It depends what kind of work he is doing. The problem is quite different in Missouri and other States of the United States where the work is done mostly in factories. In that case the time is very much limited to working hours. But in other countries I suggested a certain latitude, two hours or two-and-a-half hours, assuming that the working hours end at 5 o'clock, the prisoner is not supposed to report before 7.30 or 8 o'clock. In small towns, villages or communities he may have the opportunity of meeting the family. We have combined this system with the system of permits during the weekend also, if necessary. What I am referring to is not to an isolated measure but to a system of measures which may be combined. As a matter of fact the new Turkish law contains an article in which it is said that the authorities should combine if possible two or three measures at the same time.

1026. *Lady Adrian:* Do I understand that this system, or something like it, has been found to work in industrial areas?—Yes, you have it in several States of the United States. If my memory is correct, in Missouri it has been going on for several years now and in other countries too; that is to say, it is nothing new.

1027. I wanted to make sure it can work in a highly industrialised area.—Yes, in Hesse in the Federal Republic of Germany certain prisoners go everyday to factories, and it is a highly industrialised area; as a matter of fact some are taken by bus. The modality of Hesse is interesting inasmuch as the prisoners are mixed with the workers of the factory. Sometimes the co-workers know the fellow is a prisoner, and sometimes they do not. The owner of the factory would know, and probably the foreman too. What they have is a group of voluntary persons who go to the factory and try in a not very obvious way to take care of the prisoner in case for one reason or another he has a little problem or difficulties. They are over there for one, two or three hours, and they talk to him at the intervals or intermissions.

1028. *Lady Wootton*: Did I understand you to say that in Germany all the prisoners go out to work in factories?—No, only those who are considered suitable are allowed to work outside.

1029. Could you give us any idea for some of the countries you have mentioned what proportion of prisoners in fact go out to work like this?—In Hesse, for example, which I visited last year, the proportion is rather small, the reason being in my opinion not a good one because it applies—if my memory is correct, and I apologise if I make a mistake—only to people who have already completed at least two years. I think it would be better to start earlier than that, because for a person who has been sentenced to four years or six years to wait two years may be a little too long. There is the problem, too, that in Hesse the workshops of the prisons are not always very well equipped, and this interval of two years in prison is not good as far as professional skill is concerned.

1030. *The Bishop of Exeter*: In those countries where it is fairly widely used is there a high escape rate, or not?—Very small, may I say, particularly in the less developed countries. For example, the case of Brazil is significant, that is to say, comparatively speaking, if my memory is correct, the number of escapes from open institutions is greater than the number of escapes by the application of this measure.

1031. *Mr. Justice Edmund Davies*: Of course this method I suppose would be restricted to the inmates of penitentiaries which were in an urban area or near to an urban area. If you have, for example, a large penitentiary out in the country you might have a certain number occupied in agriculture but not a very large number. The practicability of this scheme would depend to some measure upon the location of the penitentiary, would it not?—Yes, that is true. In this sense we have a very curious contrast that the best results are obtained when the penitentiary, against the contemporary way of thinking, is in the middle of the city. The trend now is to have the penitentiary 20 or 30 miles away from the city. In the case of old penitentiaries which are in the middle of the big cities, the system works rather well because the problems of transport, communication, less publicity and so on are solved more easily than when you have to transport people 10 or 15 miles. You have raised a very important question, the case of the large penitentiary. When we are thinking in terms of large penitentiaries the tendency, at least nowadays, is to build them outside. I am against large penitentiaries. I think any penitentiary or penal institution with a capacity beyond 300 inmates is too large. The United Nations Standard Minimum Rules say 500, but even that is a little too large. I think if we succeeded in reducing the number of people sent to prison we could combine open and semi-open institutions with all these measures I am referring to, and the number of closed or maximum security prisons could be considerably reduced. As stated, however, the system also works well in agricultural countries.

1032. *Chairman*: Do you see objections to combining the advantages of the small unit with the possible administrative and economic advantages of bigger ones by grouping in some cases several small institutions, each different in their functions, geographically together?—If I have understood correctly, the question is whether or not we should have for different groups of prisoners small institutions located together, what we call a complex, or what somebody has called recently in a congress a penitentiary city. I am very

much afraid I am against that. It is true that in California they seem to be fond of the system of the penitentiary complex. The French are following it now in a new prison near Paris, which will have several sections each dealing with a particular group of offenders. I am against this because to put too many people together, even if in different sections eventually creates an impression of ostracism. From the administrative and financial point of view I think that contrary to widespread belief in the long run it is far more expensive. On the other hand, my experience is that these satellite penitentiary towns, facilitate what I call the prison antagonistic psychological atmosphere. When you visit this type of institution you may almost "smell" the antagonism between the personnel front and the prisoner front. The reason being that prisoners know they are part of a particular section of an enormous complex. I think that psychologically and from the point of view of human dignity they feel deeply affected. That is the reason why at United Nations Meetings I opposed the idea of the large complex. The only reason given, in my opinion the wrong reason, is the financial aspect involved, which, in my opinion, is not of primary importance and secondly, in fact the system is more expensive. I can tell you that like the huge prisons those compounds provoke or greatly contribute to riots. In those enormous compounds when you have a riot in one of the sections the riot propagates through, may I say, the walls.

1033. *Professor Radzinowicz*: Am I, therefore, right in saying that you would be in favour of reducing as far as possible the incidence of short-term sentences, or the number of prisoners sentenced to short-term imprisonment? Secondly, by short-term you would mean at least up to three months, but would you also be inclined to regard up to six months as short? Thirdly, I would like to ask you whether, in reducing the number, you would broadly speaking make an appeal to any reasonable device which would help to achieve this object, and could be put into effect in the circumstances, which means you favour fines and also measures which would prevent fines being transformed into

deprivation of liberty. You would favour measures such as suspended sentence, probation, all the measures which are reasonable, and you would not bother very much about it that by doing this the so-called deterrent effect of punishment may be weakened? That is three questions I have asked you.—I am very grateful to you, Professor Radzinowicz, because, being a Professor, you have put it systematically and I appreciate it very much. On the first question, I do not intend that short-term imprisonment should be abolished; that is to say, short-term imprisonment is there, but what I am trying to do is to persuade people to use it as little as possible, only when the specific personal circumstances of the offender require it. There are some psychological types for whom the small shock of sending them to prison for two weeks or several weekends is really good. That was discussed here, you will remember, at the United Nations Congress in 1960. That is my first answer to your question. Your second question—I am afraid I have lost the thread a little.

1034. That you would apply all methods.—That is to say I would replace imprisonment not by a single method, such as probation. It seems to me, that probation—has to some extent completed its historical cycle. It is not that it should not be used, but that it should be supplemented with other methods. The era of probation historically is right, but we have to go ahead. Probation is not enough. I am thinking, as I said before, of the less developed countries which cannot afford it. You have probation because you started many years ago, but if you were asked suddenly to start it you could say, "We do not have the money for that". That is the reason why I always put forward a variety of measures, on the understanding that this variety of measures does not mean that only one of them must be applied at a certain time; two or three may be combined. It also depends on the characteristics of the country, such as facility of transport, the industrial character of the area, and other factors. As far as the deterrent effect is concerned, I believe in the deterrent effect of these measures because deterrence is not only inherent in

the fact of sending a person to prison. With short-term imprisonment I think, apart from the first shock for primary offenders, there is no deterrence any more. In the less developed countries the fact of being sent to prison for two, three or four weeks, having two meals, not good but reasonably decent, is in the country very much appreciated, and therefore there is no deterrence in sending people to prison for two, three or four weeks. Besides that, all this costs money, and thirdly, nothing can be done for them. Therefore, I think the deterrent effect. . . .

1035. *Chairman:* Nothing can be done for them during their short term in prison? —Nothing, or very little. Several years ago the idea of accelerated training for this short term was very much discussed, particularly in Belgium, but it is too expensive for less developed countries. We have to remember that prison policies are becoming more and more expensive for many reasons that I am not going to go into now. I do not think many countries can afford it.

1036. *Mr. Justice Edmund Davies:* May I ask a question arising out of that? Professor, in the ultimate would you agree that the exceptional cases which you refer to on page 21 to which short-term imprisonment could be confined may nevertheless embrace numerically a large number of offenders? Take, for example, the habitual offender who has been put on probation perhaps more than once, who has been fined more than once, who has had short terms and yet goes on committing crimes, not serious crimes but let us say petty thieving, a great nuisance; he gets into a house in the afternoon and he steals and causes a great deal of alarm, and so on. I do not sit in a magistrates' court, but the magistrate members of this Commission have to deal with cases of that kind frequently. Now what are they to do? In a case of that kind short-term reformation measures during the short term would appear to be out of the question. That particular offender is not going to be deterred by being given three months, his own record shows he cannot be deterred, and let us assume he cannot pay a fine; so what should be done with him? —I understand fully that that is quite a

problem, particularly in certain countries in which small theft proliferates. The problem is of very different solution in the sense that in the very beginning that type of offender got a very rough deal. Probably the whole thing started in quite a number of cases because he was sent to prison for a short term and nothing else was done for him. But, to be as practical as possible, what has been done in certain countries is not to keep that small thief completely free but to allow him to work outside prison and to stay in prison overnight. The results have varied; sometimes rather surprisingly they have been very good. There is an enormous difference between Damascus, Ankara, London and Buenos Aires, but may I say that in agricultural countries thieves are usually thieves because of necessity; they have learnt nothing. I think the main thing is to give them the possibility of a small type of job and keep them overnight in prison. Another thing—I may say the results are very difficult because it is a problem that I do not think can be solved quite satisfactorily—is that if we keep him in prison, multiplying the periods, a month, later six months, as it happens, we arrive at what we call the persistent offender. At a certain moment this man accumulates such an enormous amount of sentences that the courts are supposed to apply terms of two, three or four years, and for no purpose at all; it is quite a problem. If I can raise a marginal question, I am against the meaning contemporarily given to persistent offenders. I think it is a legal nosological entity with little criminological content, with the result that automatically in most countries, even in the White Paper here, the persistent offender, because he has been sentenced two, three or four times, is granted smaller privileges. But I repeat, the answer is very difficult. In the less developed countries we send these people to prison, but according to personal circumstances we allow them to go out and work. Sometimes they get a job working for the community or the village. In this respect I remember my visit to India several years ago; the results are not always satisfactory, but may I say they are not worse than those resulting from keeping them in prison and certainly less expensive.

1037. *Chairman*: In this country, with our general industrial conditions, do you think that might be the answer; the day work outside with the night incarceration?—The fact is that since I have never been in England as United Nations technical adviser on prison matters I do not know the conditions here. If I had been sent here as an adviser I could have answered that question because I would have studied the problem, but I really do not know the existing situation. It is not because I am optimistic, on the contrary, I am realistically minded but I think the system could be applied. The thing to do is to study the problem and see what can be done.

1038. *Lord Wheatley*: I was going to ask you that, Professor, on the basis that perhaps unjustifiably, most of us regard this country not as under-developed but as something rather different. But to get back to the point you made in answer to Mr. Justice Edmund Davies, is your criterion solely the effect which treatment has on the individual, or has that to be balanced against the protection of the community? If you are dealing with the petty recidivist you reach a stage where, apart altogether from personal consideration of the individual, you have to take into account the protection of the public, and if you send that type of individual out to work he might just continue his offences against society.—I think you raise quite a complex question. I think the terms "protection of society" and "treatment" are a bit equivocal, in the sense that I do not think society is better protected by sending that particular thief periodically for four or five months to prison because he is a recidivist or a persistent offender. There is another question, and it is a deeper one. Does society really suffer from the fact that this small thief is repeating the offence of stealing to the value of £2 or £3? The problem as I see it is a problem I raised here in London in a lecture I gave two years ago at the London School of Economics, and that is that society is supposed to withstand without being seriously disturbed a certain amount of crime. I do not wish to shock anyone but I think crime cannot be eradicated. It seems to me that crime, like many other things such as illnesses, cannot totally be suppressed. We cannot totally prevent it and

therefore I think society suffers far more not from this petty offender but from other more serious offenders. The last remark I would like to make is that if we keep them at night in prison, some of them may be regarded as reformed. All in all I should say, if no better, we get as good a result as with the other system.

1039. *Mrs. Warburton*: I am terribly interested in your point that society must withstand a certain amount of crime. At what point would you say that society must draw the line, for what type of crime? Where does society say this is where we have to be protected? Where do you come in with the line over this?—Madam, this is the question that contemporary criminology is supposed to tackle. Nothing has been done up to now. Contemporary criminology has been very busy with the question of causes of crime, and so on, but my experience, and I am not the only one, is that, in the same way that society has to withstand a certain amount of venereal disease, tuberculosis or gambling and so on, it has to withstand a certain amount of crime. The question is, what are the limits, how should this be done, but that is what criminology should do, because the prevention of crime does not mean that crime is going to be eradicated; we should, it seems to me, accept that.

1040. *Lady Wootton*: I have some sympathy with this idea that we really have to carry a lot of petty crime; we make an awful lot of fuss about it. For instance, as you well know, in all countries a vast amount of stealing and breaking in is done by juveniles. What troubles me is whether, if we really let it ride, small crimes will not grow into big ones. That is the difficulty. If we could only distinguish the person who is going to do it once or twice, not do much harm and grow out of it, we could take it very lightly, but we seem to be completely in the dark. Is not this the weakness of the whole position?—I think we have also to face a certain amount of weakness in any system. The question is, the individual characteristics of this thief. In certain countries they have what they call observation centres. A person who has already committed two, three or four small offences instead of being sent to prison automatically by a magistrate is

sent there to see what is wrong, why this man who even has a job or a family is doing this and that. If he requires a certain amount of treatment he is sent to an institution or provided with some social worker assistance, something like that, instead of being sent to prison.

1041. The real truth is that the people who observe him at the observation centre do not really know.—It depends on the way in which the observation centre is organised. Here it should be noted that the old traditional idea of the observation centre as it was organised in France, in Fresnes, has to be changed too, but I should say, and I am going into very deep water, that the magistrates' court has to be changed too.

1042. *Dr. Gibbens:* Dr. Lopez-Rey, could I go back a bit to what you are describing as the day release, this is of course the equivalent of a hostel. A hostel is a place where a person sleeps and goes out to work. The question I would like to ask is this. Assuming it was possible to do this, that we had more hostels as well as day release prisons, what do you suggest should be the judicial aspect of it? Should it always be up to the prison authorities to release a man like this on their own discretion, whatever sentence he has been given by the court, or should the court choose to send a man to a hostel like this as a form of sentence which is under the court's discretion? The second possibility has great attractions because we are told that some sentences of imprisonment are given for exemplary purposes—a policeman or a postman who steals is always sent to prison because this is regarded as a demonstration that you must have honest policemen and postmen. Such a man could on your system be released the next day and would be a very effective out-door worker for the whole of his sentence, and yet the public would have the impression that he had been sent to prison for six months and that this was a custodial sentence. But the prison authorities presumably have to bear in mind that the courts are making an order which has a certain content to it, and therefore they do not want to go further away from what the courts have ordered than necessary. I do not know if I am making my question

clear. Could you do all this through hostel sentences, or could the prison authorities always have a right to release such a person?—If I understand you rightly, Dr. Gibbens, you are asking me whether the decision should be taken by the prison authorities or by the judicial authorities: that is the first question?

1043. Yes.—And the second question—you referred to what you call exemplary punishment, or something like that, in the case of the policemen and others. As to the first question, the problem here—and I have referred to it in one of my essays two or three years ago—is that we have a dual system, in fact we have the judicial administration and the prison administration. This is rather a nineteenth century conception, in the sense that it has always been thought that the judicial part has ended with the sentence and then the prison administration, takes over. I am not convinced that this partition or dual system is the one we need nowadays, but I am not going into the matter because it will take us too far away from the problem. The question you have raised was discussed in Turkey, because in Turkey the judicial side is very strong. Professionals maintain that the judge is supposed to know, because after all he represents the understanding of criminal law, and so on; but the truth is that the judge very often does not know anything about the prisoner. He passes the sentence and then forgets the whole thing. A remedy has been introduced in France—*le juge pour l'application des peines*—which if properly organised is a good system and it is the system I have suggested in Turkey. The prison authority system is too much concerned with prison matters to be fully objective. The prison authorities are sometimes too partisan, because they are in close contact with the prisoner as an entity—and may I say, with due respect to prison officials, therefore there is a certain amount of professional deformation which is greater among prison officials than among judges or among psychologists or psychiatrists. One of the reasons is they are forced to live in the same environment as prisoners do. That influences them more than they think. The system the Americans have—and perhaps this is the answer in

England—is to have a special board apart from prison and judicial authorities. That is to say, the board at its sittings in prison decides when the prisoners shall be released. It is what is called a parole board. The parole boards in some countries in Latin America, such as Brazil, would be good provided they would go to the prisons and get in contact with the prisoners and were duly assisted by the prison authorities. You have heard, no doubt, that the United Nations published a monograph about parole system some years ago.

1044. *Chairman*: Do you favour a system or a situation where the parole board would be quite independent of the prison administration?—Yes, independent.

1045. That is what you would favour?—Yes. I would not mind a system such as they have in certain States of the United States where the prison governor is a member of the board when the board visits a certain prison, that is to say, *ex officio* the governor of the prison is part of the board. That is a question of organisation, but the board is supposed to be independent.

1046. Referring to the White Paper on the adult offender, there it is envisaged, I think, that the prison administration or the Home Office would decide when a prisoner was fit to be paroled.—I would prefer the system of having a special board dealing with this. Some systems include the legal element, that is to say a judge, so that a judge could be a member. As for the hostels, I would prefer that they should be outside the prisons. If my memory is correct, I think that according to the White Paper they are within the prisons and I think that is not a very good idea. As for hostels I was pleasantly surprised some years ago to see in Pakistan that the system although modest has been working well for quite a number of years, that is, the hostel system outside the prison. It was mostly organised by a society for the protection of prisoners and done by private initiative.

1047. *Chairman*: A voluntary organisation?—Yes, and they did pretty well.

1048. *Professor Radzinowicz*: I think we are dealing with two different questions.

One is the question of hostels, and it is very interesting when you say that Pakistan can have communities, agricultural communities; but the prisons are so bad that you had better get out of the prison. On the whole I would favour hostels, and certainly I would think that sometimes they ought to be part of the prisons, but from time to time they might be part-time units for exceptional release. I was interested in the boards and the system of paroles. This is an important question. Now, if I understand Dr. Lopez-Rey correctly, there are two ways of dealing with this; it can be left entirely to the prison administration, that is, under the surveillance of the prison authorities, or the second alternative would be to take out the prison authorities altogether. I wonder, and I want Dr. Lopez-Rey to answer, whether prison administrators are expected to deal with prisoners and not to say whether those people ought to be discharged or not. This seems to me a very vital part in the set-up. My third point is the mixture of methods. What does Dr. Lopez-Rey understand by the mixture of the legal element and other elements, and what does he mean by "independent"—independent of whom? How can they be independent if they have to deal with people who are deprived of their liberty?

1049. *Lady Wootton*: May I put a supplementary before Dr. Lopez-Rey answers that question? If there is to be a legal element or a judicial element, on what kind of criterion will the legal element arrive at a conclusion? The prison authorities may well decide in the light of what they know about the man and his progress, but what criterion will there be which will operate in the minds of the legal element?—I shall try to do my best to answer the question already raised by Dr. Gibbens as to whether or not the hostels should be run by prison authorities or not. I am not in favour of that, even if the prison authorities are trained to do it. Now coming to the question raised by Professor Radzinowicz and Lady Wootton, may I say that actually there are not two possibilities but four for the administration of release on parole. First, you have the old system still in force in many countries—the judicial system. That

does not mean the same judge, but simply the same court or a similar court. This has not had the results expected, among other things, because all they can do is to sit behind the desk, assisted by the secretary, and go through papers and say afterwards "What do you think of that?" I am sorry to say this, but I have been a judge for many years in my own country and I know that judges are so overworked they cannot do the job properly very often. I have attended so many meetings of this kind that I do not believe in the system at all. Now the prison system has the enormous disadvantage that it is only one of the elements involved. Moreover prisons do not represent a normal aspect in life but something which reflects an "abnormal" way of living. Therefore prison officials are always under the influence of that type of life which they share with prisoners consequently it seems to me that in giving full authority to the prison authorities or any other administrative authority the pendulum goes to the other extreme. There is the third system, the French system, which represents another modality of the legal element but with a different function. It is a judge who is supposed to take care only of prisoners who are already in prisons. He is presumed to have received a special training. The difficulty of this system is that—to tell the truth as far as I know it—in Italy and in France this legal training is frequently purely academic. Secondly, the number of persons assigned to the job is very small. The situation is far more complicated in France: where the judge has to refer the whole matter to the administrative body of the Ministry of Justice in Paris, which knows very little about the prisoner. That is to say, civil servants decide about the case which is not good. The independent system is far more flexible, and although part of the machinery for administering justice is independent of the judiciary. Thus in some States of the United States there is a welfare commission or prison commission or general social commission, which is constituted by business men, and different types of professionals or other persons. These persons are appointed for several years to serve as members of the board. In some cases there is a member *ex officio*—usually the judge of a particular court—so as to

protect the human rights of the prisoner. Actually, in granting parole there is not only the question of whether or not a man will be able to live a law-abiding life, but also whether or not certain rights which he is entitled to are respected, and the judge is supposed to play a supervisory role on this. In other countries it is the Minister of Public Affairs or the Minister of Social Affairs who may appoint the members. The trend is to have something like a criminal justice or policy council, that is to say, an independent council which is neither under the judicial authority nor under the prison authority, which appoints the members of the parole board. The latter goes two or three times a year to the prison. In the United States it may happen that the warden of the prison, *ex officio*, becomes a member of the board. In other cases he is not a member but simply appears before the board to explain certain facts. Sometimes the law on parole stipulates whether or not the person is entitled to a review of his application and when that should take place or whether, as example for reasons of bad behaviour, that has to be postponed.

1050. *Chairman*: I think Lady Wootton's supplementary question was what were the criteria which should be adopted—the criteria in the mind of the person or persons who are deciding whether a prisoner should be released. I understand the prison people will be guided by the man's progress in prison, but the legal element comes from outside into the prison and then has to decide whether or not the man ought to be released.—The role of the legal element is partly advisory, in the sense that the law on parole may say the prisoner has to complete one-third or two-thirds, or that he has to do this thing or that thing before being paroled. The role of the adviser is to check that the provisions are duly kept or applied.

1051. *Lady Wootton*: The rules are kept? —Yes. In certain areas the legal element does not exist in the sense that everything is left to the non-legal element. That has a certain disadvantage. In some countries the legal element is represented by the Public Prosecutor, who in my view is no better than a judge for the purpose mentioned.

1052. *Mr. Millard*: Could you give us your views, Professor Lopez-Rey, on the criteria which should influence a parole board in deciding whether to release a person? In other words, should they have regard solely to the likelihood of the man being a success in society, or to his conduct in prison, or should they have regard to the circumstances in which he was sentenced, and how would you balance those various factors?—It would be extremely difficult to go into details of particular criteria, but it seems to me the United Nations Standard Minimum Rules for the treatment of prisoners give a good guide, without going into particulars. We have the protection of society and the treatment of the offender and I think the first criterion is that the penitentiary treatment does not try to make from a man a model person. In other words the purpose of penal treatment is simply to ensure that a particular person, as far as possible, will not commit, within a reasonable period of time, another offence. That is the main point. Penal treatment cannot ensure anyone against crime. The utmost is that within a reasonable period of time he will not commit a new offence. In this respect the White Paper, contains some good points. As reasonable time, a period of three years and sometimes five years, is mentioned. The second question is that penal treatment cannot aim at changing morally the offender. Sometimes it can be done but usually not beyond specific limits, those required to ensure as far as possible the man will not commit, within a reasonable period of time, a second offence. If he is somewhat immoral or neglects his family that is something else. That is something with which penal treatment and hence the parole board or the persons concerned have little to do. That is another question since although having a moral content treatment has not a moral but sociological purpose. The Standard Minimum Rules refer to it by saying that "the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life". These elements offer the best criteria to the parole board. The willingness is important; it is relatively easy if a man is not a recalcitrant man. Of

course, you cannot have a 100 per cent willing man, but if he is 70 per cent willing, it is quite enough. Secondly, if he is able to lead a law-abiding and self-supporting life even if he later fails; these elements seem to offer the basic criteria. Does that answer your question?

Mr. Millard: It answers it exactly, thank you.

1053. *Lord Wheatley*: But it seems to me they ignore the very important element, which is the nature of the offence for which the person was sentenced, because I can visualise a board coming to the conclusion that if a particular person can satisfy these particular requirements he could go out tomorrow, but that would ignore the fact that he has committed the offence, which may be very serious. Should no cognisance be taken of this?

1054. *Professor Radzinowicz*: You said the criterion of being self-supporting. We know a great proportion of the small offenders cannot do this. They simply cannot do an honest piece of work to be self-supporting. Does it mean that the parole board will reject them and say that they must stay? There is also the question of the gravity of the offence.—I will try to answer. First, about the gravity of the offence, may I say that in most cases this is taken care of in the system by the usual regulations on release and parole. Thus, if a person has been sentenced to three years imprisonment, he is eligible for parole as a rule not before one year or more has elapsed. If he has committed a very serious offence and has been sentenced to 10 years, in most cases he will not be able to appear before the parole board until he has served three or more years. These restrictions take account of the gravity of the offence. Usually they are included in the general provisions on parole.

1055. *Lord Wheatley*: Yes, I understand. In other words, there must be a formula to regulate the eligibility for parole?—Oh yes, this is not just six or seven members who go over to the prison to discuss a case. That is the reason for the legal element being there too. He will say what the situation is from the legal point of view. He is the person who takes care that things are done according to existing

provisions. As for the question of being self-supporting, what Professor Radzinowicz says is true; but here again I refer to something I said before, that penal treatment like any other treatment cannot transform a person. The weakness of the system may be reduced if the prison administration provides the prisoner upon release with a job. Other facilities are hostels and after-care, the co-operation of trade unions, and so on, but you cannot go beyond teaching the offender and equipping him, that is teaching him to do a job, and to provide a job. Sometimes it will last no more than three weeks but unless you put constantly near him a person—and that is practically impossible—beyond that, the penitentiary policy cannot go. To some extent the problem here is what happens in most prisons with prison labour, particularly in the highly-industrialised countries. In many cases the work is not better than that provided by the less developed countries. You would be surprised to see the variety of jobs offered to prisoners in Turkey and Chile while in England, because labour is highly organised and protected by trade unions, prison labour is really poor. The fact is that quite a number of prisoners get extensive training in quite a number of things, but they do not learn how to work, and that is one of the main problems.

1056. *Chairman:* We are very interested, Dr. Lopez-Rey, in this question of prison work, and you have dealt with it in your papers and shown your preference for the nearest possible approximation to work in free conditions for normal pay, etc. I wonder if you could tell us where you think this aim is best met among industrialised countries? I think we are conscious of the fact that here it has not been developed as far as it might have been. Is there any country that you think it would be particularly worth our while to visit in that connection?—If we divide countries into highly-industrialised and less-industrialised countries, I should say that the situation regarding prison labour is usually not better in highly-industrialised countries. The reason is that the workers and the trade unions are so well organised in their privileges and rights, which are so well preserved, that the trade unions—

and I would like to make it clear I have nothing at all against trade unions, on the contrary I am in favour of them—resist for reasons of competition of feared unemployment the integration of prison labour with labour in general and the national economy. It is easier to do it in less-developed countries. First, the trade unions are practically non-existent. In Turkey the existence of trade unions was really legalised only last year; and secondly, unemployment is not as serious as it is in some developed countries.

1057. We are particularly interested in the highly-industrialised countries of course.—I can offer no good example, but years ago I went to Sweden and noticed they are trying to build first a factory and around it the prison but I understand the system has been abandoned because of the difficulties encountered.

1058. We have had two views put to us in evidence. One is that approximating the conditions and tempo of prison labour as nearly as possible to what the prisoner will find outside when he is released is so important that the whole tempo and organisation of work in prison should be given primary consideration. The other is that if that is done too little time is available for other treatment of prisoners—educational, psychiatric, and so on. Somehow or other it seems that a way has to be found of reconciling these two.—I think that work or labour in general is the most important element in daily life for prisoners and for non-prisoners. We all have to work, but although fundamental prison labour is not the only thing that should be provided for prisoners. I am not in favour of a prisoner working eight hours like an ordinary worker if he needs special care, but if he works three hours and the work done is as good as that done by any other similar kind of worker, he should be paid more or less in a similar way. On the other hand, certain hours should be devoted to education, if required, or psychiatric treatment. It seems to me, however, that extreme positions should be avoided. My impression is that nowadays we are trying to do too much about counselling and psychiatric treatment—which obviously are often justified—but far less about the improvement of prison

labour which in many respects, even psychologically, is extremely important.

1059. *Mr. Justice Edmund Davies:* Do you regard the main object or function of prison as being to see that there is proper work provided for prisoners? Is it for rehabilitation, or for other considerations? —For the rehabilitation, criteria already mentioned.

1060. Is it mainly rehabilitative?—Yes and no, in this sense—my insistence about this question of prison labour is because we have to teach people how to work, to teach them that work is something important which has to be done by everyone, that it is a social obligation for everyone. It is more than for rehabilitation purposes; to make the offender able, as the rule says, to be law-abiding and self-supporting. A real social practical purpose.

1061. In equipping him?—Yes, preparing and equipping him to be law-abiding and self-supporting: that is the main purpose. May I say that in this I am very much in favour of open and semi-open institutions, and of allowing people to work outside. As long as closed institutions prevail in a particular prison system. I think on the basis of my own experience, that no administration has the ways and means to organise prison labour properly. You can see wonderful prisons nowadays, in which recreation and television, etc., are provided for the prisoners. I have nothing against that, but you can see that very little is done about prison labour. Therefore, these open institutions and semi-open institutions, allowing people to work outside, which will facilitate this question of labour and the expenses involved, are a good thing. That is one of the reasons why the number of open institutions is comparatively greater in the less-developed countries than in the well-developed countries. I should say that in the United Kingdom you do not have more than 10 or 12 per cent of prisoners in open institutions. The same thing applies in the United States. I think the closed institution is bad in the sense that it handicaps practically everything. Besides that, we should not delude ourselves; the administration cannot compete with the techniques of private industry and it cannot buy the new machines to do this or to do that; and

the only way to compensate for that is to react against the obsolete State labour system and, under due control, to bring private industry into the prisons.

1062. *Chairman:* It seems to me you have made a very helpful and important point when you say it is extremely difficult for any prison administration to simulate the conditions of outside industry in a closed prison, with the best will in the world.—They cannot, you see. There is no money to do that: it is impossible. Contemporary modern industry is always making profits, and a prison administration cannot compete with this. Either you must send out as many prisoners as possible or you must bring industry as much as possible inside. To some extent it is done in France nowadays, with some good results. It is done in Chile, because poor administration cannot cope with the expenses involved in setting-up modern workshops, it is done in other countries, too.

1063. *Mr. Millard:* In America in the federal prisons they have what they refer to as the Federal Prison Industries. Do you feel that that is going nearer to bringing efficient commercial administration into the prisons? It rather struck us that it went a very long way, because it was organised on a commercial costing basis, among other things.—I am not in favour of that type of prison industry as something autonomous, and I think that I have even given some figures on the matter in some of my papers. The main beneficiary of the system is the State. If you look at the figures of Federal Prison Industry, it is good business for the Federal Government. In any case the Federal system has not been able to remunerate more than one-third of Federal prisoners, who receive in the best of cases, if my memory is correct, \$30 to \$40 per month—sometimes \$50—while the benefits for the Federal Administration amount to millions since the inception of the system.

1064. *Mrs. Warburton:* You say that one of the conditions of parole would be that the prisoner was not likely to commit any further offence. In an affluent society where a great deal of emphasis is placed on the fruits of wrong doing, where does the

question come in of changing somebody's attitude as to why he is there at all? Does working hard, etc., in any way change the attitude of mind?—I think Dr. Gibbens could help in answering your question, because building up the will in a person to do something different from what he has been doing in the past is not only a question of work but also of education, psychological treatment and even psychiatric treatment and counselling—there are quite a number of ways and means to build up in a person a healthier social attitude.

1065. *Chairman:* We will grill Dr. Gibbens on another occasion about this.—It is a complex process. That is the reason why in most cases prison administrations are not yet equipped to do quite a number of things; and in this respect I am very much in favour of another type of prison administration. What we understand by training now has, I believe, to undergo a radical transformation. I do not know whether you are aware that several years ago in Singapore they published a very interesting report. The Commission, following the Standard Minimum Rules of the United Nations, which are always very well received but not as much implemented, recommended that the service should be a social service—not that they should be social workers, because social functions can also be performed by doctors, or even by judges, and so on. In fact all this means that we have to evolve a new concept of criminal justice. In the report of the Singapore Commission you may see that they were thinking of a new conception of the prison service that is as a real social function, and not as an administrative function. I am very much afraid that in countries like England and the United States this conception cannot be implemented to the extent required as long as the type of closed institutions and maximum security institutions prevails and pervades the penitentiary system.

1066. *Mr. Iremonger:* Would Dr. Lopez-Rey recognise any difference in kind between the phenomenon of crime or deviancy, or whatever you like to call it, in a comparatively primitive stable agricultural culture and community on the one hand, and a rapidly expanding and changing industrial culture and com-

munity on the other?—You say do I recognise any difference?

1067. A difference between the phenomenon of crime in the two different kinds of societies.—There are certain differences, of course, but in my opinion they have been quite often exaggerated. I think that crimes of violence although typical in agricultural countries, are also becoming typical but in a different way in industrialised countries. In Turkey—and I mention Turkey because it is the last country where I have been but since in the last 40 years I have been to 62 countries I could mention others, between 3,000 and 4,000 homicides are committed every year with a population of about 30 million. In the United Arab Republic the figure is higher with a smaller population. Those homicides are mostly committed for family feud reasons—and in this sense are less "dangerous" to society at large than the homicides committed in other countries. On the other hand, in countries like the United Kingdom and the United States violence is increasing rapidly, in the sense that contrary to past criminological assertions urban society is becoming as ruthless as the agricultural society of less-developed countries. There are a number of cases of violence such as armed burglary, attacking banks and brutal homicide which reflects another type of society. The difference is reflected mostly in the motivation and cultural patterns and for the moment in the quantity of violent crime. As stated the latter is increasing instead of decreasing in the so-called affluent society.

1068. *Lady Wootton:* But does that not have some bearing on what happens in this country—Professor Radzinowicz's institute study showed that a high proportion of crimes of violence in this country are committed by the Irish who are immigrants coming from a simple agricultural community such as you described. Might it not be related to that, this increase?—I would like to put a question not to you, Lady Wootton, but to Professor Radzinowicz—is the same proportion of homicides committed by Irishmen in Ireland as those committed by Irishmen over here? What about the role of the environmental or the cultural element of the industrial setting? Does it

not determine that increase to some extent. There is also the question of the proportion of Irishmen who are living in certain social and economic conditions, too. I should not say that simply because they are Irish or coming from an agricultural community they commit more homicides. The question is far more complex than that. My impression is that the greater the industrialisation of certain areas the greater the amount of crime. This is no reflection on industrialisation itself, but on the way it has taken place. In the United Nations years ago I have stated that when planning industrialisation criminologists should also participate because industrialisation is not only an economic or industrial problem.

1069. *Dr. Gibbens*: I would like to go back to the question of parole. In most countries which have introduced parole there is a great tendency to extend it, so that either you get, as in America, a system where everybody is paroled or you go to the other extreme. Would it be possible to have some sort of mixture? You talked about the parole of people given one-, two-, or three-year sentences. In terms of the short sentence is it not possible to have a "non-parole" system in which the prison could release short-term offenders the next day, if they thought fit, to go to work. There would then be a different system of release for prisoners serving longer sentences? If you can have a mixed system, in other words a "non-parole" and a parole system, where would you draw the line? How would you prevent people being transferred from the short-term system to the long-term system?—*Dr. Gibbens* has raised a practical question which I tried to solve in Turkey. According to the new law parole does not apply to the short-termers since they benefit or may benefit from the application of different measures such as suspended sentence or deferred and alternate imprisonment granted by the prison administration. The number of short-termers is terrific, and no less than 200 parole boards would have been required. As for long-term imprisonment the new law passes the granting of parole to the *juge pour l'exécution des peines*. The old provisions gave it to the prison authorities.

1070. But in theory, if a man is thought to be the kind of man that society does not need to be protected from for more than six months, this is the sort of man the prison authorities will release?—Concerning short-termers the prison authorities cannot release him on parole but decide whether or not the man should work outside.

1071. *Miss Fletcher-Moulton*: *Dr. Lopez-Rey*, in his article, referring to the British Penal System, said, "the fact that since 1948 several Criminal Justice Administration Acts have been adopted has not essentially altered the obsolete structure and functioning of criminal justice". This is page 159.—That is a very complex question. It is true that I think the criminal justice system—I understand that there are present very distinguished representative members of the judiciary—has to change, as incidentally I have already pointed out. I think we need a new concept of criminal justice. I am very much afraid that if I started answering the question the five minutes left would not be enough. The truth very briefly put is that we are still thinking, in terms of the administration of justice, of a highly dignified—as it should be, please do not misunderstand me—but at the same time, type of dogmatic, formalistic justice from which the social element in the true sense of the term is still missing. We have applied it in matters of mental health and welfare but not as yet in criminal justice. This cannot be rendered by the application of case law or precedent as it is mostly done. It seems to me that the formal type of justice that we have nowadays has also completed its historical cycle; and in this connection I think that the training of the judiciary—I understand the term "formation of judges" is not very much liked in English, because the term "formation" seems to be not a good one, has to be approached in a different way than it is at present.

1072. *Lady Wootton*: Does that mean a social training as well as a legal training?—Yes, and the transformation has to start in the faculties of law and in the legal profession. Consequently Bar associations and similar organisations have to change their way of thinking too and become more sociologically minded—i.e. more

aware of social problems—and less professionally minded than they are at present.

1073. *Mr. Iremonger*: Could I try to clarify Dr. Lopez-Rey's suggestion that there might be a theory of social criminal justice, as opposed to formal administration of justice? The word "social" is a little difficult. Would you perhaps mean creative criminal justice, as opposed to purely formal criminal justice?—I think that "creative" is perhaps more dangerous than "social". Social criminal justice does not mean compensation of social or economic inequality but a more realistic approach to social and economic requirements and greater sense of individual as well as collective social responsibility. This implies a transformation of the legal profession. Among other things, I should say that judges are still regarded—using a modern term—as "generalists". They are required to know about civil law, patent law, divorce law, criminal law and any other law. That does not happen in other professions any more and increases the gap between them and social reality.

1074. *Lady Adrian*: Could I, very humbly, as a magistrate say that in the best magistrates' courts some of this transformation to a different attitude towards criminal justice is taking place now.—If it is taking place it is a good sign but the transformation of higher judges and their training is quite a different matter.

Lady Adrian: And it started, if I may say, so, in the juvenile court.

1075. *Chairman*: Dr. Lopez-Rey, thank you very much. We are very grateful that Miss Fletcher-Moulton asked the question, because in the five minutes available we have learned something about your view on this. May I thank you very much for coming today. The answers you have given us have been most thought-provoking and we have valued the evidence you have given us more than I can say. We shall send you a transcript for your comments and alterations, in the interests of accuracy. Thank you very much.—Thank you very much, my Lord Chairman. It was a privilege to be among you.

(The witness withdrew)

ROYAL COMMISSION
ON THE PENAL SYSTEM
IN ENGLAND AND WALES

Minutes of Evidence
taken before the
Royal Commission

WITNESSES

Association of Teachers in Penal Establishments

Prison Reform Council

Recidivists Anonymous Fellowship

Mr. Richard Hauser

Howard League for Penal Reform

Professor Manuel Lopez-Rey



LONDON

HER MAJESTY'S STATIONERY OFFICE

1967

Witnesses

THE ASSOCIATION OF TEACHERS IN PENAL ESTABLISHMENTS

Mr. D. R. Vickers	}	Pages	1-32
Mr. R. McGrory		Questions	1-177
Mr. D. B. Edwards			

THE PRISON REFORM COUNCIL

Mr. E. Varney	}	Pages	33-53
Mrs. E. Salthouse		Questions	178-374
Mr. M. Balk			
Mr. R. Bourke-Haliburton			
Mr. L. Gibson			

THE RECIDIVISTS ANONYMOUS FELLOWSHIP

Mr. B.	}	Pages	54-96
Mr. R.		Questions	375-596
Mr. S.			
Mr. P.			
Mr. G.			
Mr. M.			

MR. RICHARD HAUSER, CENTRE FOR GROUP STUDIES	Pages	97-142
	Questions	597-709

THE HOWARD LEAGUE FOR PENAL REFORM

Mr. H. J. Klare	}	Pages	143-194
Dr. R. C. Andry		Questions	710-1007
Dr. Howard Jones			

PROFESSOR MANUEL LOPEZ-REY	Pages	195-211
	Questions	1008-1075